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TO THE

# REPORTS OF COMMITTEES

OF THE

# HOUSE OF REPRESENTATIVES

FOR THE

FIRST SESSION OF THE FORTY-NINTH CONGRESS,

1885-'86.

IN TWELVE VOLUMES.

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| Smith, Stephen D | 3260 | 11 |
| Snow, Mary E | 442 | 2 |
| Spaulding, Lesitta W | 2260 | 7 |
| Spenard, Julia | 659 | 2 |
| Stannard, Emily J | 3259 | 11 |
| Stevens, Catherine | 1975 | 7 |
| Stevens, Joshua N | 802 | 3 |
| Stickney, Helen M | 1536 | 5 |
| Stiles, Stover E | 1731 | 6 |
| Snell, Josiah B | 286 | 1 |
| Ward, Charles F | 1276 | 4 |
| Ward, Willie F | 293 | 1 |
| Weston, Cyra L | 2671 | 9 |
| White, Bartlett E | 1976 | 7 |
| Williams, Sarah Ann | 1730 | 6 |
| Witham, Sophronia | 1530 | 5 |
| Wood, Warren F | 2548 | 8 |
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| Capehart, Col. Charles E | 2887 | 10 |
| Donayer, Henry | 2528 | 8 |
| Dunmire, Theodore | 2749 | 9 |
| Evans, Fannie E | 585 | 2 |
| McIntyre, Byron | 3419 | 11 |
| Pensions, to officers and men on sick leave | 2560 | 8 |
| Ryan, John | 2382 | 8 |
| Stutaman, Henry H | 72 | 1 |
| | 2529 | 8 |
| *By Mr. Lovering:* | | |
| Adams, Mary H | 1974 | 7 |
| Ambler, Almira | 3074 | 10 |
| | 3076 | 10 |
| Balson, Emeline J | 1973 | 7 |
| Barry, John H | 322 | 1 |
| Bassett, Sarah E | 1972 | 7 |

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| Bulkley, Mabelle R | 1034 | |
| Burbank, Abby L | 461 | |
| Byrnes, Daniel J | 1035 | |
| Carll, Mary B | 341 | |
| Clapp, Emma L | 1341 | |
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| Clune, Elizabeth | 1193 | |
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| Connolly, Daniel | 109 | |
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| Donaldson, Walter A | 2932 | |
| Douglas, Charles | 1787 | |
| Eads, Grace F | 2729 | |
| Field, William | 1337 | |
| Fisher, Eliza A | 1032 | |
| Flagg, Algernon S | 1191 | |
| Flynn, Stephen | 1786 | |
| Frink, Austin L | 1039 | |
| Gibson, Ella E | 1493 | |
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| Gray, Frank N | 1339 | |
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| Holbrook, Alice S | 108 | |
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| Kingsbury, Gould | 2116 | |
| Kirmayer, Francis H | 340 | |
| Little, Ann | 774 | |
| Long, George R | 2930 | |
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| Luther, Emily | 3073 | |
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| Nichols, Mrs. Eunice S | 339 | |
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| Norwood, George | 1195 | |
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| O'Neill, Margaret | 2680 | |
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| Paul, Louise | 2773 | 9 |
| Perry, Adeliza | 3071 | 10 |
| Phillips, Mary H | 2928 | 10 |
| Plummer, Judith | 3451 | 11 |
| Potts, Joseph H | 111 | 1 |
| Robinson, Dileno | 1194 | 4 |
| Rodman, Charles G | 112 | 1 |
| Root, Sylvester | 1338 | 5 |
| Rice, Ashley C | 2926 | 10 |
| Richards, Augusta M | 460 | 2 |
| Sawyer, Samuel | 2726 | 9 |
| Seeley, George | 777 | 3 |
| Shaftoe, William | 3075 | 10 |
| Smith, Elbridge | 3077 | 10 |
| Somes, Rinaldo R | 776 | 3 |
| Spicer, Emily Louisa | 775 | 3 |
| Sullivan, Elizabeth | 324 | 1 |
| Tolman, Ellen S | 319 | 1 |
| Tracy, Samuel E | 2770 | 9 |
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| Turner, Laura A | 1788 | 6 |
| Turney, Mrs. Martha E | 110 | 1 |
| Vars, Mary Ann | 3450 | 11 |
| Washburn, Lucy A | 2772 | 9 |
| Warren, George A | 2927 | 10 |
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| Weeden, Amos C | 1785 | 6 |
| Welch, Ellen J | 2114 | 7 |
| Wheeler, William W | 2683 | 9 |
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| Amann, Kate | 401 | 2 |
| Anderson Lucy E | 3255 | 11 |
| Ayers, Edward | 2053 | 7 |
| Bagley, Mary | 1021 | 3 |
| Baker, William B | 2658 | 9 |
| Barber, Elizabeth | 2050 | 7 |
| Battorf, Nancy | 1768 | 6 |
| Beezeley, Louisa C | 1692 | 6 |
| Billings, Andrew W | 1571 | 6 |
| Boone, William | 771 | 3 |
| Branch, Dudley B | 2055 | 7 |
| Burrill, John G | 1343 | 5 |
| Carmichael, Susannah | 324 | 1 |
| Chandler, James C | 2052 | 7 |
| Cravens, Joseph R | 1017 | 3 |
| Cullen, Bridget M | 1282 | 5 |
| Dane, Rhoda | 7 | 1 |
| Day, Newton | 737 | 3 |
| Dean, John A | 648 | 2 |
| Diezer, Theodore | 3068 | 10 |
| Doggett, John E | 2346 | 8 |
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| Fisher, Samuel C | 1014 | 3 |
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| Ging, Jacob | 1022 | 3 |
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| King, James H | 3449 | |
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| Little, Mary A | 1184 | |
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| McAlexander, Robert J | 544 | |
| McCarty, Mrs. Catherine (Part 2) | 3207 | |
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| McMillan, Joseph | 1281 | |
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| Moss, James | 647 | |
| Murray, John G | 1020 | |
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| Benson, John | 241 | 1 |
| Bethuren, William | 2399 | 8 |
| Bickerdike, Mrs. M. A | 9 | 1 |
| Black, Mary M | 2526 | 8 |
| Blake, William H | 118 | 1 |
| Bollinger, H. G | 3086 | 10 |
| Bottjer, Frederick | 116 | 1 |
| Boutwell, Daniel W | 1425 | 5 |
| Bowling, Samuel W | 1590 | 6 |
| Bowman, W. H. C | 126 | 1 |
| Brady, Mary | 2945 | 10 |
| Brenninger, Jacob | 1913 | 7 |
| Brentano, William | 2666 | 9 |
| Brinegar, John P | 575 | 2 |
| Broaddus, Mrs. P. E | 65 | 1 |
| Bruce, John L | 2084 | 7 |
| Bruner, Dr. J. F | 52 | 1 |
| Buck, William G | 1594 | 6 |
| Burns, Henriette | 2405 | 8 |
| Burrill, Andrew J | 2523 | 9 |
| Burtz, Ambrose | 425 | 2 |
| Buster, Felix R | 1593 | 6 |
| Butler, Aretus | 2081 | 7 |
| Butler, Margaret | 1770 | 6 |
| Bynum, John W | 1909 | 7 |
| Campbell, Eli W | 64 | 1 |
| | 1602 | 6 |
| Campbell, Jesse | 2663 | 9 |
| Campbell, Philip D | 10 | 1 |
| Campbell, William S | 2109 | 7 |
| Cannon, William | 582 | 2 |
| Carleton, A. William P | 1776 | 6 |
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| Carnahan, Abigail | 1596 | 6 |
| Casteel, Mrs. Sarah | 1702 | 6 |
| Chapman, Mrs. Hannah M | 225 | 1 |
| Chenoweth, Isaac | 115 | 1 |
| Church, William | 3254 | 11 |
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| Collett, Anderson | 423 | 2 |
| Collins, Geriah | 2098 | 7 |
| Cook, Holden | 13 | 1 |
| Cooley, Eli W | 3246 | 11 |
| Cooney, Mrs. Lizzie E | 224 | 1 |
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| Cotton, James D | 1707 | 6 |
| | 1910 | 7 |
| Cotton, T. W | 1911 | 7 |
| Cox, George W | 1592 | 6 |
| Crawford, Emeline | 679 | 2 |
| Cronk, Sarah M | 1427 | 5 |
| Dagley, Stokeley D | 1736 | 6 |
| Darling, James H | 1904 | 7 |
| Davidson, Clara B | 2943 | 10 |
| Davis, W. C | 1115 | 4 |
| Devol, E | 2817 | 9 |
| Dickens, William | 2822 | 9 |
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| Ekengren, C. W | 2412 | |
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| Faust, August | 2101 | |
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| Groynne, Nira D | 578 | |
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| Johnson, Dr. Jackson T | 3250 | 11 |
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| Kirkpatrick, John S | 2402 | 8 |
| Kirkpatrick, Robert B | 2080 | 7 |
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| Koehler, Ferdinand | 1589 | 6 |
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| Lester, Daniel | 2415 | 8 |
| Lewis, Mrs. Ma | 1783 | 6 |
| Lightner, Frank | 232 | 1 |
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| Loe, Louis | 424 | 2 |
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| Long, Albert | 1600 | 6 |
| Love, Isaiah A | 1595 | 6 |
| Lowery, Rebecca J., guardian | 12 | 1 |
| Mack, Daniel F | 1739 | 6 |
| Magoffin, Albert E | 54 | 6 |
| Manhart, Frank | 1108 | 4 |
| Marine, Frederick | 1485 | 5 |
| Marshall, Frederick | 2105 | 7 |
| Martin, Phoebe | 235 | 1 |
| Masten, Charles H | 1915 | 7 |
| Mathes, James G | 3082 | 10 |
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| Miller, George T | 1426 | 5 |
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| Moran, Robert | 405 | 2 |
| Morgan, James | 1112 | 4 |
| Morris, Nancy E | 120 | 1 |
| Mulholland, Hugh | 1111 | 4 |
| Murphy, Thomas | 243 | 1 |
| Naron, Levi H | 2411 | 8 |
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| Newman, Thomas G | 462 | 2 |
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| Snovely, Jacob | 61 | 1 |
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| Squires, William P | 326 | 1 |
| | 2096 | 7 |
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| Steward, Jackson | 2082 | 7 |
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| Stout, Zephaniah | 2110 | 7 |
| Stuckey, John | 3247 | 11 |
| | 3465 | 11 |
| Swartz, William M | 1591 | 6 |
| Sweet, Franklin | 2919 | 10 |
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| Taylor, Mary J | 1491 | 5 |
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| Theun, Catherine | 1780 | 6 |
| Thompson, Minerva T | 784 | 3 |
| Thornberry, Joseph H | 2091 | 7 |
| Thornburg, J. H | 3080 | 10 |
| Thornton, John W | 652 | 2 |
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| Tillman, Hezekiah | 1782 | 6 |
| Town, M. S | 414 | 2 |
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| Tucker, Ralph H | 1912 | 7 |
| Twitchel, Leander C | 747 | 3 |
| Underwood, James A | 233 | 1 |
| Vernay, James D | 236 | 1 |
| Wright, Sarah C | 2425 | 9 |
| Wagner, Philip | 327 | 1 |
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| Weide, August | 56 | 1 |
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| Dutcher, Lucy G | 2138 | |
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| Forbes, Duncan | 2160 | |
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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 374.

# NORTH, CENTRAL, AND SOUTH AMERICAN EXPOSITION.

FEBRUARY 9, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. IRION, from the Committee on Commerce, submitted the following

## REPORT:

[To accompany H. Res. 108.]

*The Committee on Commerce, to whom was referred the House resolution 108, authorizing the several Executive Departments of the Government to loan the North, Central, and South American Exposition at New Orleans certain articles for exhibit, beg leave to report as follows:*

The committee see no objection to the resolution, and therefore recommend its passage, amended as follows:

Add after the word "Government," in line 16, the following words: "And shall be returned to the Department in good order within one month after the close of the Exposition."

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 375.

# YELLOW FEVER CASES.

FEBRUARY 9, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. R. T. DAVIS, from the Committee on Commerce, submitted the following

## REPORT:

[To accompany bill H. R. 5542.]

*The Committee on Commerce, to whom was referred House bill 5542, beg leave to submit the following report:*

The accompanying bill provides for sending an expert commissioner to Mexico, and if necessary to Brazil, Havana, and the Central American States, for the purpose of investigating the merits of the methods pursued by Drs. Freire and Carmona for the prevention of yellow fever by inoculation, and of obtaining all other information relative to that disease which may be acquired by experiments or otherwise. The manner of preparing the virus of these two physicians is dissimilar. Dr. Freire is following more closely the system of Pasteur, which consists of repeated inoculation of the inferior animals until the virus becomes attenuated and modified, when it is introduced into the human body. Dr. Carmona employs the micro-organism which he has eliminated from one of the secretions of a person suffering from yellow fever. The essential principle of each process is the same, viz: the introduction into the animal circulation of a specific virus, which will produce in an extremely mild and modified form symptoms and conditions similar to those existing in yellow fever, and the effect of which is to protect the person from an access of that disease. It is claimed that successful results have attended this preventive treatment, which certain statistical statements would appear to prove.

Dr. Carmona states that in one series of observations during the prevalence of yellow fever of 380 persons protected by inoculation, less than 3 per cent. of the number contracted the disease, while under the same circumstances, of 175 persons not inoculated 32 per cent. were seized with it. He also states that 76 inoculated soldiers marching from Vera Cruz to Acayucan were joined by a soldier who had not been inoculated. Upon their arrival at the latter place the unprotected soldier was seized with yellow fever and died, while no case of the disease occurred among his 76 comrades.

Other facts of a similar character are related by Drs. Carmona and Freire, which certainly tend very strongly to show the success of this preventive treatment.

Medical investigations in recent times, and particularly the brilliant discoveries of Pasteur, have proved that certain diseases in men and animals which result from a specific contamination of the blood can be

prevented by inoculation with the germ which propagates the disease and gives it its peculiar character. The more closely the symptoms artificially produced resemble those of the original disease, the greater is the probability that protection will be derived from them. While the results of the investigations pursued and the preventive treatment adopted in Mexico and Brazil are extremely satisfactory, they are not absolutely conclusive.

It is therefore important that further scientific observations and experiments should be instituted in order to establish beyond controversy the facts relating to this subject so vital to the interests of sanitary science, commerce, and humanity.

In order that accurate results can be obtained, it will be necessary that the methods pursued shall be observed during the prevalence of the disease by thoroughly skilled experts and physicians. The microscopic appearances of the blood and secretions should be noted. The form of the specific germinal principle should be observed and identified; its constant presence in all forms of the disease should be determined; and it may be necessary to transplant and reproduce it in the lower forms of animal life. It should be carefully eliminated from all other microscopic organisms existing in the fluids of the body, so that the results of its action upon the functions and tissues of the human body and animals, when introduced by inoculation, may be clearly ascertained.

Every change connected with its presence under various conditions should be preserved by photographic illustrations carefully and accurately executed.

Then the symptoms and essential character of the natural and artificial disease should be carefully observed by physicians of ability and experience, and the actual value of this treatment established. This should be done in advance of the occurrence of an epidemic of yellow fever in our own country, in order that we may profit by the knowledge thus obtained to stay its ravages, avert the panic which always accompanies its invasion, and save our business interests from the enormous injury it inflicts.

Should the opinions of Drs. Carmona and Freire be justified by thorough and continued observation, their importance to the inhabitants of the tropical and semi-tropical regions chiefly afflicted by this disease cannot easily be exaggerated. Yellow fever is one of the three most formidable diseases which afflict the human race. One of these happily occurs at rare intervals; another has been since the commencement of the century successfully controlled by that form of preventive treatment it is now proposed to investigate.

If a similar controlling principle can be applied to yellow fever it will confer a boon upon the people of our Southern Atlantic and Gulf coasts, and of the great Mississippi Valley, hardly second to that which the humane genius of Jenner has given to mankind. In its highest aspects this question concerns humanity, but for the statesman the commercial considerations involved are of the first importance. The repeated invasions of this grave disease have been a serious obstacle to the prosperity and progress of the states bordering upon the Gulf and Lower Mississippi.

It has repeatedly paralyzed their industries, impoverished their people, and in several instances reduced their cities to bankruptcy. The evil has not been confined to the immediate area visited by the disease; so close are the bonds of commercial intercourse and so intimately blended are the reciprocal currents of trade and business of the inter-

nge of raw and manufactured products between all portions of our mmon country, that whatever seriously affects the prosperity of any tion is speedily felt by all.

Every invasion of yellow fever has seriously affected the business inests of the Eastern, Middle, and Northern States, and every repentative of these interests should be equally concerned with the mbers from the Southern and Southwestern States in the support of ery judicious measure for the prevention of this disease.

For the reasons above stated, your committee recommend the passage the bill.

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## VIEWS OF THE MINORITY:

We do not concur in this report.

CHARLES F. CRISP,
ANDREW J. CALDWELL.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 376.

# LIMITING THE EXACTION OF FEES.

FEBRUARY 9, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. BELMONT, from the Committee on Foreign Affairs, submitted the following

## REPORT:

[To accompany bill H. R. 4138.]

*The Committee on Foreign Affairs, to whom was referred the bill H. R. 4138, being a bill to limit the exaction of fees or the levy of taxes for the consular verification of invoices, beg leave to submit the following report:*

The purpose of the proposed enactment is in accord with that portion of the President's message relating to reforms in the consular service, which, by resolution of the House, was referred to the committee. The evil sought to be remedied is discussed by the Hon. Daniel Manning, Secretary of the Treasury, in his report for the fiscal year last ended, pages IX to XV, and is set forth more in detail in the Appendix to said report, pages 352 to 359.

Briefly summarized, the object of the bill is to prevent the exaction hereafter of any fee in excess of the fee of $2.50, prescribed by section 2851 of the Revised Statutes, for verifying an invoice of merchandise to be imported into the United States, and to substitute a declaration for an oath in countries where consular officers of the United States are not permitted by the laws of such countries to administer oaths therein. Its operation will be chiefly confined to the ports of Great Britain; its purpose is to relieve American importers from extra-official charges now levied upon them for *jurats* taken before British officials, under American law, amounting, at the lowest computation, to nearly $100,000 a year. The fee of $2.50, prescribed by section 2851, Revised Statutes, is required by law to be covered into the Treasury of the United States, and forms a large item in the receipts from our consular service. No revenue is derived by the United States from the extra-official fees now sought to be abolished.

On pages IX and X of the report of the Secretary of the Treasury for the last fiscal year is a brief history of the legislation of Congress with respect to the verification of invoices by consular officers. In Ex. Doc. No. 122, Forty-seventh Congress, first session, pages 4 to 10, the statutory provisions and the consular instructions issued in relation thereto are set forth more at length. By the act of March 1, 1823 (3 Stat., 729), it was provided that in foreign countries, where American consular officers were not permitted to administer oaths other than to American citizens, the verification of invoices of goods to be imported into the United States might be made before a local officer, whose right to administer oaths was to be authenticated by the consul. But the *require-*

*ment* of an oath was limited to invoices of goods subject to ad valorem duty; the owners of which resided out of the United States; and this limitation continued in force until 1862. The act of July 14, 1862 (12 Stat., 543), extended this provision to all goods by whomsoever owned. This requirement was repealed by the act of March 3, 1863 (12 Stat., 739), and a simple declaration, in triplicate, was all that was demanded of the shipper, the verification under oath being left to the owner or consignee in this country.

The act under which the abuse now sought to be remedied grew up was passed March 3, 1865, and is embodied in section 2862 of the Revised Statutes, which reads as follows:

All consular officers are hereby authorized to require, before certifying any invoice under the provisions of the preceding sections, satisfactory evidence, either by the oath of the person presenting such invoices or otherwise, that such invoices are correct and true. In the exercise of the discretion hereby given, the consular officers shall be governed by such general or special regulations or instructions as may from time to time be established or given by the Secretary of State.

It will be noted that this section leaves the requirement of an oath discretionary, under certain restrictions. A report from the State Department, in response to a resolution of the Senate (Ex. Doc. No. 122, Forty-seventh Congress, first session, before alluded to), states (page 7) that in the exercise of this discretion it was found invidious and impracticable to require the oath from one or more shippers, and to permit the others to make declarations without the oath, and consequently instructions were issued to require the oath from all shippers without distinction. In the same report Secretary Frelinghuysen added (page 9):

Under the instructions which required the oaths to invoices, when necessary to their binding effect, to be taken before a public officer of the country, qualified to administer oaths, it was found that the fees of such officers were different in different countries, and even in the same country in different places. Complaints were from time to time received from merchants and shippers in this respect, which the Department has sought to remove. In those countries where the competent officers for such oaths were found, and were readily accessible to those having consular business, an effort was made to gain their assent to the establishment of a uniform fee for the administration of the invoice-oaths, although it was a matter in which the Department could exercise no authority. Reports from all consular officers concerned were obtained. Steps were also taken to secure a legal opinion upon a case stated, from such a source as should make it authoritative both as to the exact and the lowest legal fee for such an oath. In the United Kingdom of Great Britain and Ireland these measures resulted in the establishment of a uniform charge by the commissioners in chancery, and other officers doing business with the several consulates, and of the lowest legal fee authorized by the laws of the country for the administration of the oath.

As to the practical working of this system, Secretary Manning, in his report for the last fiscal year, states (page XI):

Shortly after I came to the Treasury Department my attention was called to complaints by shippers that in London and elsewhere in Great Britain they were compelled to pay for verification and certification of invoices a sum largely in excess of that prescribed by the statute. I found, on inquiry, that, after 1868-'69 the practice had prevailed in our consular offices in the United Kingdom of sending a shipper to a British notarial officer for the administration of an oath, and that the shipper was generally compelled to pay a sum not less, and often more, than $1.12 for such administration, in addition to the $2.50 authorized by the statute. It was represented to me that this additional large tax upon each shipment prevented the legalization of invoices, and inconvenienced the administration of the customs revenue in New York and other large ports. The law generally forbids any merchandise to be admitted to entry unless accompanied by a legalized invoice, but a discretion is vested in the collector of the port, under the general instruction of the Treasury Department, to admit, nevertheless, merchandise of a relatively small amount, and under proper circumstances, without a legalized invoice, and thus not only was the revenue inconvenienced, but receipts from the regular consular fee of $2.50 were diminished.

In a report laid before the Forty-second Congress by President Grant (Ex. Doc. No. 143, third session), the special agent charged with an examination into these and other matters says (page 7):

The person or British officer by whom the oaths to invoices, &c., to be used in the United States are usually administered is known as a commissioner. * * * The charges for commissioners' fees, I find, vary very materially, despite the law regarding the subject. For oaths to invoices the fees range from 2 shillings and 6 pence (about 60 cents) to 6 shillings, or $1.44. * * * In explanation of what appeared to me as an exorbitant commissioner's fee, I was told that the rate was fixed by local custom. To my mind this tax is not only an unnecessary levy upon the manufacturer or shipper of goods to the United States, but it is also, I am perfectly assured, the medium of a revenue to the consular officer, effected through collusion or an agreement with the commissioner. It is well enough for such officers to evade the question by saying invoices may be certified before any duly authorized party, but it is quite evident, were any one to take advantage of this freedom, his action would not meet with approval. Knowing the fees charged, and also the number of invoices verified, I might easily, if necessary, approximate the amount of pecuniary benefit derived from this source should the officer receive but a moiety. I may mention, in this connection, that in every case which has come to my knowledge the commissioner has been, at the same time, the vice-consul of the United States.

Secretary Manning, in the Appendix to his report (p. 358), quotes to similar effect from the report of Special Agent Tichenor, dated October 6, 1885, as follows:

Mr. Darlington, a young solicitor and a commissioner, was appointed vice-consul at Bradford, upon the recommendation of Consul Grinnell. Early in the year 1883, in consequence of a misunderstanding between Consul Grinnell and Mr. Darlington, the former asked for the latter's removal as vice-consul. Pending this controversy, Mr. Darlington informed me that when he was nominated as vice-consul he entered into a written agreement with Mr. Grinnell to pay to the latter 80 per cent. of the fees he (Darlington) received for administering the oaths to invoice declarations, which agrement he subsequently, for certain reasons, sought to annul or modify, and this led to the misunderstanding between them. He informed me it was his intention to report all the facts to the State Department, as well as give publicity to them at Bradford. At the time Mr. Darlington made these statements to me he was visiting London for the purpose of conferring with Consul-General Merritt on the subject. Mr. Grinnell is one of the most industrious, faithful, and painstaking consular officers we have abroad, and if he made the arrangement mentioned with Mr. Darlington, as I assume he did, it is not improbable he had some precedent therefor, and considered the transaction entirely proper.

The reports of Special Agents Martin and Tichenor, given at pages 353 and 355 of the Appendix to the same report, estimate, on a computation of the number of invoices certified at the London consulate, as derived from the records of the Fifth Auditor's office of the Treasury Department, and on the basis of one oath only being charged for for each invoice (even though sworn to in triplicate or quadruplicate) that the amounts collected for these extra-official fees on invoices from the port of London alone amount to $23,000 per annum, and that in the entire United Kingdom the amount received from this source, and not accounted for to the United States, exceeds $83,500 per annum. In the opinion of your committee this is an exaction from which American commerce should be freed.

Secretary Manning says (page XIII):

I have been unable to discover a well-authenticated case of prosecution for perjury, or for a false oath, in the verification or authentication of invoices abroad, or indeed in our custom-house at home. It is extremely doubtful whether in Great Britain a prosecution would be attempted, or would be successful if attempted. The crime or perjury would be, as I am advised, difficult to lay and prove in legal form, even if a foreign Government would promote or tolerate in its jurisdiction a prosecution for an offense against the tariff law of the United States.

At the same time the enforcement of this requirement, as alre shown, embarrasses the collection of the revenue and diminishes consular receipts of the Treasury by encouraging a system of small portations without legalized invoices. It has been further found stated in the report of the Secretary of the Treasury, page xv) that maintenance of this system promotes a scramble for extra-official fe

Your committee therefore recommend that the bill do pass.

C

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 377.

# AMERICAN EXHIBITION IN LONDON IN MAY, 1886.

FEBRUARY 9, 1886.—Laid on the table and ordered to be printed.

Mr. BELMONT, from the Committee on Foreign Affairs, submitted the following

## REPORT:

[To accompany H. Res. 15.]

*The Committee on Foreign Affairs, to whom was referred the joint resolution (H. Res.* 15) *concerning an American Exhibition to be held in London in May,* 1886, *beg leave to submit the following report:*

The committee has had this resolution under consideration, and upon inquiry it has been ascertained that the British Government has not recognized the exhibition as an international one, and the committee believe that Congress should not legislate for an American or international exhibition within British jurisdiction without the prior invitation of the British Government. No such invitation has been received at the Department of State. The enterprise is understood to be a private one, and the capital to conduct it is mainly forthcoming in London.

Your committee cannot, therefore, recommend the adoption of the resolution, and report it back with the recommendation that it do not pass.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 378.

# POSTAL MONEY-ORDERS.

FEBRUARY 9, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. A. J. WARNER, from the Committee on the Post-Office and Post-Roads, submitted the following

## REPORT:

[To accompany bill H. R. 4177.]

*The Committee on the Post-Office and Post-Roads, to which was referred the bill (H. R. 4177) to reduce the fee on domestic money-orders for sums not exceeding $5 from 8 to 5 cents, respectfully submits the following report:*

The charge for money-orders for $5 and under is now 8 cents. It is proposed by this bill to reduce this charge to 5 cents. The first question raised is, can this deduction be made and still keep the money-order system self-sustaining? The answer is, it no doubt can be. The net profit arising out of the domestic money-order business for the last fiscal year, after deducting all salaries, fees, and expenses of every kind, including rent of offices in Washington and the salaries of clerks in Washington who were employed in the money-order offices, was $123,543.75. It is estimated that the reduction from 8 to 5 cents on orders below $5 will reduce the revenue by about $83,000, which, if there are no other reductions, will still leave a surplus. The fact should be noted, however, that during the last year there was, for some reason, in the Auditor's report an extraordinary expenditure for clerk hire in that office charged to this service which is not likely to occur hereafter. This will make up in part for the loss occasioned by the reduction contemplated in this bill. But even if the reduction in the revenue from money-orders should be as large as here stated there would still be a net surplus over and above all expenses. The money-order business and postal-note business were never entered upon by the Government with the view of making them sources of revenue. The aim has been to make them self-sustaining, but nothing more. The fact, too, that the smaller orders are used largely by the poorer classes of people is an additional reason for making the reduction on the charges on this class of orders.

Your committee therefore report the bill back with the recommendation that it pass.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 379.

# CLERK HIRE TO POSTMASTERS.

FEBRUARY 9, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. PETERS, from the Committee on the Post-Office and Post-Roads, submitted the following

## REPORT:

[To accompany bill H. R. 4415.]

The Committee on the Post-Office and Post-Roads, to whom was referred the bill (H. R. 4415) to make the allowances for clerk hire to postmasters of the first and second class post-offices cover the cost of clerical labor in the money-order business, and for other purposes, having had the same under consideration, report back said bill with amendments, recommend its passage, and in explanation thereof submit the following:

The act of March 3, 1883, section 4, fixed the rates of compensation for the transaction of the money-order business in post-offices, and provided that such compensation should be paid out of the fees received from the issue of money-orders and postal notes. The late Postmaster-General Gresham construed this section to prohibit the employment in money-order work of any clerk in a post-office paid in whole or in part out of the allowance from postal funds for clerks in post offices.

The enforcement of this provision created much embarrassment in post-offices, particularly in smaller post-offices, where the extent of the money-order business was in very many instances not sufficient to occupy the whole time of a clerk, who could not, during any leisure, engage in any other work of the office. This difficulty was removed in part by the following provision inserted in the act making appropriations for the service of the Post Office Department for the fiscal year ended June 30, 1886, and for other purposes, to wit:

> And postmasters are authorized, with the approval of the Postmaster-General, to assign at any time any clerk or employé of their respective post-offices to duty in any branch thereof: *Provided, always,* That any employé shall be paid from money-order funds for such time as he is engaged in money-order work.

This provision of law did not, however, obliterate entirely the distinction between money-order clerks and other clerks in post-offices, and as stated in the annual report of the First Assistant Postmaster-General for 1885, "is not satisfactory, as the adjustment of the dual duties of clerks in post-offices causes much inconvenience and confusion"; he therefore renews the recommendation previously made that the allowances for clerk hire as made by his office should cover the entire cost of clerical labor in post-offices. The Postmaster-General made a similar recommendation.

The object sought to be obtained by these recommendations is exactly the object of the bill (H. R. 80) introduced by Mr. Rogers, December 21, 1885, and the bill (S. 255) introduced by Mr. Jones December

9, 1885, to "provide for the deposit in the Treasury of the receipts of the money-order system and for the payment of its expenses out of appropriations."

These bills, also, are but reprints of a former bill (H. R. 5671), Forty-eighth Congress, first session, introduced by Mr. Money.

The objections to these last-mentioned bills are in brief these:

(1) That if enacted into law the money-order system would be so merged in respect of its receipts and expenditures with the General Post-Office Department that it would be impossible to ascertain what its individual receipts and expenses were, and consequently whether it was being conducted upon a basis of gain or loss to the Government. Particularly would it be impracticable to ascertain whether each of the several international money order systems was being carried on at a profit or loss.

(2) That to make the earnings of the money-order system a part of the postal revenue such earnings or receipts must logically be accounted as part of the gross receipts of the respective post-offices at which they accrue, which would result in increasing the salaries of many such post-offices, because their salaries are based upon gross receipts under the act of March 3, 1883. Out of about fifty offices selected at random, calculation made by the proper office shows that the salary of nearly one-fourth would be increased in the sum of $100 each.

(3) That part of the proposed bill has been already enacted into law, to wit, the concluding part of section 3, which authorizes the Postmaster-General to designate postmasters at money-order offices as disbursing officers. (See appropriation bill, service of Post-Office Department, for year ended June 30, 1885.)

The bill (H. R. 4415) introduced by Mr. Blount on January 21, 1886, now under consideration, and intended to be a substitute for former bills, is not open to these objections, and, as amended, covers fully the ground contemplated in the recommendations of the Postmaster-General and of the First Assistant Postmaster-General.

It simply provides that allowances for clerk hire (the only item of expenditure which, when separately made for the money-order business, has created embarrassment and confusion in post-offices) made to postmasters of first and second class post-offices by the Postmaster-General, out of the annual appropriation for clerks in post-offices, shall cover the cost of clerical services of all kinds in such post-offices, including the cost of clerical labor in the money-order business; that money-order allowances for clerk hire shall not be separately made, but shall be included in the general allowances; and it also retains the same basis for money-order allowances as that upon which they are now made, to wit, 3½ cents for each money-order transaction, 1 cent for each postal note issued, and ¾ of a cent for each postal note paid, as provided in the fourth section of the act of March 3, 1883; and it deprives the postmasters at all of the second-class offices, as well as at offices of the first class, of any personal compensation in addition to their salaries for the transaction of the money-order and postal-note business.

In short, Mr. Blount's bill obliterates all distinction of every kind between money-order and other clerks in post-offices, and yet retains basis of clerical compensation for money-order business upon which may readily be determined, at any time, the separate cost of such business

It provides for clerk hire at offices of the first and second class, but at the smaller offices, those of the third and fourth class, postmasters will still, as now, receive compensation for the money-order business in

the form of commissions, which they may appropriate to themselves if they perform the work, or pay to a clerk, if they so elect.

Postmasters at third and fourth class offices, it may be added, receive no allowance for clerk hire except such as are separating or distributing offices.

Your committee therefore recommend that House bill 4415 be amended by striking out in section 2 all of lines 5, 6, 7, 8, 9, 10, and 11, and adding the words, "shall be based upon but not to exceed the rates specified in the fourth section of the act of March 3, 1883; and at all money-order exchange offices, which are now or may hereafter be established additional allowance for clerk hire may be made as provided in said section for international exchange offices; and postmasters at offices of the first and second class shall not receive any compensation in addition to their salaries for the transaction of the money-order and postal-note business"; and that with such amendments it be passed.

C

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 380.

# RECEIPTS OF THE MONEY-ORDER SYSTEM.

FEBRUARY 9, 1886.—Laid on the table and ordered to be printed.

Mr. PETERS, from the Committee on the Post-Office and Post-Roads, submitted the following

## REPORT:

[To accompany bill H. R. 80.]

The Committee the Post-Office and Post-Roads, to whom was referred the bill (H. R. No. 80) to provide for the deposit in the Treasury of the receipts of the money-order system and for the payment of its expenses out of appropriations, report the same back and recommend that it do lie on the table, the objects of said bill being accomplished by House bill 4415, with amendments, which has been recommended for passage.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 381.

# JOHN P. Y. DAVIS.

FEBRUARY 9, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GEDDES, from the Committee on War Claims, submitted the following

## REPORT:

[To accompany bill H. R. 449.]

*The Committee on War Claims, to whom was referred the bill (H. R. 449) for the relief of John P. Y. Davis, respectfully report as follows:*

The facts out of which this claim for relief arises will be found stated in House Report No. 16, first session Forty-eighth Congress, which report is hereto annexed and made a part of this report, and is as follows:

[House Report No. 1494, Forty-seventh Congress, first session.]

*The Committee on War Claims, to whom was referred the bill (H. R. 5417) for the relief of John P. Y. Davis, report as follows:*

That the bill under consideration directs the Secretary of War to grant to John P. Y. Davis, late second lieutenant, Company H, Fifty-second Regiment of Indiana Volunteers, an honorable discharge from the military service as of the date of November 6, 1862.

The facts gathered from papers accompanying the bill show that John P. Y. Davis was mustered in as second lieutenant with Company H, Fifty-second Indiana Volunteers, February 1, 1862, to serve three years. He was tried by general court-martial convened at Fort Pillow, Tennessee, pursuant to General Orders No. 2, of date October 29, 1862, from headquarters district of Columbus; charge, absent without leave; found guilty, and sentenced to be dismissed from the service, to date from November 6, 1862. The disability to re-enter the service resulting therefrom was removed by letter from the Adjutant-General United States Army to the governor of Indiana, dated January 15, 1866.

It appears from the proof submitted that on or about the 19th day of September, 1862, the said Lieutenant Davis was prostrated by a severe attack of fever, and became very feeble in body and mind in consequence of said sickness, and while in this weak and debilitated state of mind and body that Major Strickland, then in command of the regiment, persuaded and induced the said Lieutenant Davis that he had better visit his home to regain his health; that he, the said Major Strickland, would see that it was all right, &c.; that under these inducements the said Lieutenant Davis left his post and went North and returned voluntarily to his command as soon as his health was restored, in about three weeks afterward. Shortly after his return to his regiment he was summoned before a military court-martial, and on a charge of absence without leave was tried and dismissed the service. This was the whole offense for which this soldier was tried.

Your committee are of opinion that the relief should be granted, and report back the bill with the recommendation that it do pass.

Your committee therefore adopt said House report as the report of this committee, and report the accompanying bill (H. R. 449) for his relief with recommendation that it pass.

O

CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 382.

# RANE C. HUTCHINSON.

FEBRUARY 9, 1886.—Laid on the table and ordered to be printed.

EDDES, from the Committee on War Claims, submitted the following

## REPORT:

[To accompany bill H. R. 3443.]

*Committee on War Claims, to whom was referred the bill (H, R. 3443) for the relief of Rane C. Hutchinson, report as follows:*

e bill in this case seeks to authorize the Secretary of War to adjust ay an alleged claim of Rane C. Hutchinson for services rendered xpenses incurred in the military service of the United States during ate war, and the amount claimed is now fixed at $47,950.

aims of this class are quite numerous, and the nature of them such they should be established by the most satisfactory evidence. One ch of the case is susceptible of proof even at this late day. The ces performed were as a "scout" in the secret service of the Govent. In the management of this service during the war it was necy to confer upon general officers almost unlimited discretion in the rsement of money for this purpose. They selected the men to per- the duty, and usually if not invariably paid them from time to as the particular service was rendered. It is not difficult for claimven at this late day to prove that he performed services in that of military duty, and that they proved of great value to the Govent. This being established, we must still find from the evidence he has never been paid. This he should prove. The facts and cirtances offered should be sufficient to overcome the natural presumpof payment.

careful examination of the facts of this case irresistibly produces iction in the mind that the claim is unfounded. He first presented laim to the War Department in May, 1882, seventeen years after ys it accrued. He then claimed $36,410. If it was well founded ust, as he now claims, he proved himself one of the most patient ndulgent creditors of the Government. This claim was considered ejected by the Judge-Advocate-General July 24, 1882.

bsequently he restated his claim, placing the amount at $47,950, ubmitted some additional evidence.

e claimant, in his affidavit of May 4, 1882, swears "that he has been paid by the United States for his personal services nor rersed for the private expenditure on its account." This is contrad by indubitable proof. The records of the War Department show n the month of January, 1864, he was paid $828 by Maj. Gen. J. cPherson, as per Hutchinson's receipts.

It also appears that an order was issued by Brigadier-General Brayman, September 22, 1864, for the payment to said Hutchinson by one Freeman Holmes of $8,787, and the records show no disposition of said funds.

The Secretary of War, under date of February 20, 1885, says:

WAR DEPARTMENT,
*Washington City, February* 20, 1885.

SIR: I have the honor to acknowledge the receipt of your communication of the 2d ultimo, inclosing House bill 7582, to authorize the settlement and payment of accounts of Rane C. Hutchinson [Hutchison?], and requesting information in regard to the merits of the claim.

In reply thereto, I beg to say that when the claim of Mr. Hutchison was first presented to this Department, in May, 1882, seventeen years after it accrued, it amounted to "about $36,410." An adverse report was made upon the claim by the Judge-Advocate-General, July 24, 1882, and additional evidence was subsequently filed, the claim being stated by items at $47,950. Upon the claim as last presented, the Judge-Advocate-General, March 19, 1884, reported in favor of an allowance of $13,420, overlooking the payment of $20, hereafter mentioned.

A prolonged and careful investigation of the accounts of the officers under whom Hutchison claimed to have served failed to elicit evidence of payment to him, except the sum of $20, by Lieut. Col. J. A. Hopkins, chief of special police in New Orleans, December 29, 1863, for his expenses to Vicksburg.

Payments for secret services and expenses therein are the most difficult to trace, lump sums having been intrusted to general officers to disburse at their discretion, and the object sought would probably have been defeated if the orders and payments were made of record. It is also known that persons employed in the secret service by military commanders were often paid by their provost marshals from funds derived from fines, penalties, &c., for the disbursement of which the provost marshals were accountable only to their commanding officers.

Although the claimant Hutchison, in his affidavit of May 4, 1882, swears "that he has never been paid by the United States for his personal service, nor reimbursed for the said private expenditures on its behalf," it appears from the records of this Department that he was paid $20, December 29, 1863, and it has been accidentally discovered since your communication was received, from a source outside the Department, that three payments were made to him in the month of January, 1864, amounting to $828, by Maj. Gen. J. B. McPherson, as per Hutchison's receipts dated the 12th, 20th, and 31st of that month.

It also appears that an order (copy herewith) was issued by Brigadier-General Brayman, September 22, 1864, for the payment to Hutchison, by one Freeman Homes, of $8,787, and the records do not disclose anything in regard to the transaction, nor to the disposition of said funds.

From the above it is apparent that any statement of Hutchison must be received with great caution, and the laches of the claimant in bringing his claim before the Department should, in the opinion of this Department, be a bar to its favorable consideration.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
*Secretary of War.*

Hon. GEORGE W. GEDDES,
*Chairman Committee on War Claims, House of Representatives.*

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[Copy of endorsement on enc. 17 of $\frac{1927}{c}$ W. D., 1882.]

ADJUTANT-GENERAL'S OFFICE,
*Washington, Feb'y* 19, 1885.

Respectfully returned to the Secretary of War with a copy of Par. V, S. O., No. 69, Headqurs. U. S. forces, dated Natchez, Miss., Sept. 22, 1864, as it appears on the Special Orders Book, United States forces, Natchez, Miss. The order is not signed, but the records of this office show that 1st Lieut. C. B. Smith, 61st Ills. Vols., was A. D. C. and A. A. A. G. at those headqrs. during September, 1864.

Neither the records of this office nor those of discontinued commands filed here furnish any information in regard to the transaction, nor to the disposition of the funds referred to within.

R. C. DRUM,
*Adjutant-General.*

[Copy of enc. 36 of $\frac{1927}{c}$ W. D., 1882.]

SPECIAL ORDERS No. 69.] HEADQUARTERS U. S. FORCES,
*Natchez, Miss., Sept. 22d, '64.*

[Extract.]

* * * * * * *

V. It appearing that Freeman Homes, a disloyal person, as agent of Eustace Surget, then and now of the rebel army, took from the lawful custody of the United States at sundry times forty-five bales of cotton, and disposed of the same for the sum of about eight thousand seven hundred and eighty-seven ($8,787.00) dollars, for which sum he has rendered no account to the proper authorities of the United States, well knowing the premises. It is therefore ordered that he pay over the said amount to Col. R. C. Hutchison, special agent, to be held secure in special deposit to await the further order of the general commanding.

And, further, that Maj. Townsend arrest and hold in custody the said Freeman Homes until said sum be paid, and until further orders.

* * * * * * *

By order of Brig. Gen. Brayman.

*A. A. A. Gen'l.*

A true extract.

THOMAS WARD,
*Asst. Adjutant-General.*

In view of the facts connected with this case, your committee feel no hesitancy in finding against the claimant, and therefore report adversely to the bill, and recommend that it be laid upon the table.

O

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 383.

# SIDNEY R. SMITH.

RY 9, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

LEINER, from the Committee on War Claims, submitted the following

## REPORT:

[To accompany bill H. R. 1511.]

*Committee on War Claims, to whom was referred the bill (H. R. 1) for the relief of Sidney R. Smith, having considered the same and mpanying papers, submit the following report:*

ney R. Smith enlisted in the military service of the Government e Thirty-third Regiment New Jersey Volunteers on the 31st day ly, 1863, for three years or during the war.

the 29th of December, 1863, he was by the governor of New Jer- ommissioned as a second lieutenant in said regiment. He received commisson on the 10th of March, 1864, and was immediately or- by the commanding officer of the regiment to equip himself, which d promptly, and he was thereupon assigned to duty with Com- G of said regiment, there being a vacancy of both first and second nant in the company at the time; that from the time he was as- d to duty as aforesaid until his separation from his command said and was continuously in active service attending the advance e Army in Northern Georgia, and no opportunity occurred for uster into service; that he continued on duty with the com- until the 8th of May, 1864, when, in an engagement known as y Faced Ridge, Georgia, the commanding officer of the company, in Battell, was killed, when Lieutenant Smith assumed command he was himself severely wounded, losing his left forearm, when he ordered back to officers' hospital at Nashville, Tenn., where he re- ed under treatment until he received leave of absence for twenty

er he returned home gangrene set in in his wound, and he was un- to return to hospital until September, 1864, his condition in the time being regularly reported by the attending surgeon to the on in charge of hospital at Nashville.

en he returned he remained in hospital until 19th of November, when he reported to the commanding officer at Chattanooga,

e regiment then being with General Sherman on his march to the nd the line of communication having been severed, it was impos- for him to rejoin his command, and he was assigned to duty with wentieth Army Corps detachment, where he was engaged equip- for service convalescent soldiers. When General Hood advanced

upon Nashville, Lieutenant Smith, with the command under his charge, was engaged in the battle of Dalton, Ga.; was subsequently ordered back to Nashville, and actively participated in the several engagements which followed.

After the battle mentioned, his wound broke out afresh, and it never having entirely healed, he was again sent to the officers' hospital at Nashville, where he remained until January 9, 1865, when he was discharged therefrom, and on same date received orders to report to his command at Savannah, Ga.

That upon his arrival at Hilton Head, S. C., February 8, 1865, he found that his command had started northward. He was then ordered to report for duty to the commanding officer at Blair's Landing, S. C., by whom he was ordered to duty as commanding officer of detachment Second Division Twentieth Army Corps. The last of March he was relieved from duty at that point and ordered to report to his command, which he did, taking with him about 200 men belonging to his regiment.

After rejoining his command, April 5, 1865, he was regularly mustered into service as of the rank to which he had been commissioned as stated, and shortly thereafter he resigned on account of his disabled condition.

In consequence of his assignment to duty as a commissioned officer he was compelled to and did employ a servant, and to pay his own expenses while in hospital.

That it was not through any fault or negligence of Lieutenant Smith, but solely on account of wounds received while in the line and performance of duty, which compelled a separation from his command and prevented him from being mustered into service at the time he received his commission.

This claimant under the circumstances mentioned should be paid the compensation he would have been entitled to if he had been mustered into the service in pursuance of the commission received by him. It would be a great hardship and gross injustice to deny it to him.

A case similar to this was presented at one time to President Lincoln. He wrote to the War Department as follows:

> I remember nothing of this case. I desire that it shall be investigated and that Captain Bowry be paid for the services actually rendered, if any. The Government cannot afford to accept services and refuse payment for them.
>
> A. LINCOLN.

The papers were returned to him with the statement that Captain Bowry had not been mustered into the service prior to February 6, 1862, the period for which pay was claimed being anterior thereto. Under date of August, 1862, President Lincoln replied to this "red-tape" suggestion as follows:

> I did not ask for information as to whether this man has been mustered into the service. Have we accepted his actual services? If we have, let him be paid for them, unless there is positive law against it.
>
> A. LINCOLN.

Congress has provided by a general law for the relief of officers who failed to be mustered into the service, but this case does not come within its provisions. It is, however, so manifestly just that your committee recommend the passage of the accompanying bill.

O

'ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 384.

# 'VAL OF MATERIAL FROM GOVERNMENT PRINTING OFFICE.

:UARY 9, 1886.—Referred to the House Calendar and ordered to be printed.

ARKSDALE, from the Committee on Printing, submitted the following

## REPORT:

[To accompany bill H. R. 4982.]

Committee on Printing, to whom was referred the bill (H. R. entitled "A bill to enable the Public Printer to continue in effect ovisions of the 'Joint resolution authorizing the Public Printer to 'e certain material from the Government Printing Office,' ap- d February 6, 1883," have considered the same, and report the bill :o the House with the following amendment: In line 7 strike out ords "four thousand" and insert the words "fourteen thousand undred," so that it will read as follows:

: *it enacted by the Senate and House of Representatives of the United of America in Congress assembled*, That to enable the Public Printer tinue in effect the provisions of the joint resolution entitled 'Joint tion authorizing the Public Printer to remove certain material he Government Printing Office,' approved February sixth, eighteen ed and eighty-three, the sum of fourteen thousand five hundred s be, and the same is hereby, appropriated out of any money in easury not otherwise appropriated."

ir committee recommend the passage of the same, and in support ir recommendation the committee submit the accompanying com- ation from the Public Printer:

OFFICE OF PUBLIC PRINTER,
*Washington, D. C., February* 1, 1886.

In regard to the special appropriation for removal and storage, I beg to say e annual rental of the "Globe" building, as now occupied, amounts to $2,664. removal necessitates the employment of extra laborers, watchmen, and team, ng an annual expenditure of $6,630. This latter expenditure is sometimes it of the appropriation for printing and binding, but I think it is more prop- iargeable to the appropriation for removal and storage.

office occupies five rooms in the "Globe" building, amounting to 16,000 square nd this storage room is not only absolutely necessary, but more is required.

:lose herewith memorandum of the various rooms, and the amount paid; also tal rent paid since the passage of the bill.

'ill require about $14,500 from February 20, 1886, to June 30, 1887, to pay the expense of removal and storage, and I respectfully request that this amount ostituted for that mentioned in my former letter.

leases are made for a term not exceeding six months, which would enable the e Printer to promptly occupy the new building should Congress order the same.

: above appropriation is imperatively required for the safety of the employés of overnment Printing Office, the particulars of which were set forth in the debate overnor Anthony, chairman Senate Committee on Printing, at the time of the ge of the removal and storage act.

Very respectfully,

S. P. ROUNDS,
*Public Printer.*

DR. E. BARKSDALE,
*Chairman Committee on Printing, House of Representatives.*

MEMORANDUM OF PARTS OF GLOBE BUILDING RENTED BY HON. S. P. ROUNDS, PUBLIC PRINTER, FOR STORAGE OF GOVERNMENT PROPERTY.

From February 20, 1883, to September 19, 1884.—The large brick building in Jackson Hall alley and the rooms formerly used by the Globe Office as a paper vault and storage room, at $55 per month.

From January 1, 1884, to January 19, 1886.—Two large rooms on second floor front, at $60 per month.

From December 5, 1883, to January 19, 1884.—One large room in back building, at $30 per month.

From August 20, 1884, to January 19, 1886.—Two rooms on third and fourth floors back, at $97 per month.

From September 20, 1884, to January 19, 1886.—Two rooms on first floor front, at $30 per month; one room on third floor front, at $35 per month.

| | |
|---|---|
| Rent for 1883 | $5[illegible] |
| Rent for 1884 | 1,8[illegible] |
| Rent for 1885 | 2,8[illegible] |
| Total rent to January 19, 1886 | 5,2[illegible] |

Present rental of parts of Globe building is $222 per month.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 385.

# SUBPŒNA DUCES TECUM.

FEBRUARY 9, 1886.—Ordered to be printed.

Mr. TUCKER from the Committee on the Judiciary submitted the following

## REPORT:

The Committee on the Judiciary, to which was referred the *subpœna duces tecum* from the supreme court of the District of Columbia, directed to Hon. John B. Clark, jr., Clerk of the House of Representatives, commanding him to appear as a witness in the case of Lemon *vs.* Fitzgerald *et al.*, before Albert Harper, 480½ Louisiana avenue, at office of H. O. Claughton, esq., on the 8th day of February, 1886, at 2 o'clock p. m.—

And bring with you the bound volume containing the enrolled bills reported from the Appropriations Committee in regard to pensions made for the fiscal year ending June 30, 1885, which is now in the possession of the Government Printer.

Witness:

D. K. CARTTER,
*Chief Justice, &c.*

[Seal supreme court District of Columbia.]

R. J. MEIGS,
*Clerk, &c.*

By R. J. MEIGS, JR.,
*Clerk, &c.*

beg leave to report:

The committee deem it important to protect with strict care the privileges of the House in respect of its officers and its records and papers upon file in its various offices, and under charge and in custody of its officers. Subject, however, to this supreme duty, the committee think that all proper access to these records and papers should be allowed in furtherance of the ends of justice in civil and criminal proceedings in the ordinary courts of justice, but so as not to endanger the safety nor surrender the custody of such records and papers.

The committee, in regard to the present matter, think that justice will be done consistently with the privileges of the House by permitting the court, in such manner as shall be accordant with its rules, to examine, by witnesses or otherwise, the records and papers in the possession of the House or its officers, and take evidence in respect thereto, and to take copies thereof, so that neither records nor papers shall be removed from their proper place of deposit in the Capitol or from the safe-keeping and custody of the officers of the House.

This course is not only dictated by sound reason and public policy, but sustained by recent precedents.

In the Forty-sixth Congress an elaborate report was made by the Judiciary Committee, with the recommendation of the following resolutions, which passed the House after debate in which the principles of

the resolutions were not seriously questioned (Congressional Record, first session, Forty-sixth Congress, 680):

*Resolved*, (1) That no officer or employé of the House of Representatives has the right either voluntarily or in obedience to a *subpœna duces tecum* to produce any document, paper, or book belonging to the files of the House before any court, or officer, nor to furnish any copy of any testimony given, or paper filed, in any investigation before the House, or any of its committees, or of any other paper belonging to the files of the House except such as may be authorized by statute to be copied, and such as the House itself may have made public, to be taken without the consent of the House first obtained.

(2) That the consent of the House is hereby given in the case of the United States against Col. D. S. Stanley, now pending before the general court-martial sitting in the city of New York, to have made and properly proven such copies of the papers mentioned in the *subpœna duces tecum* issued by the judge-advocate of said court, and directed to Ferris Finch, esq., file clerk of the House of Representatives, on the 16th instant, as may be desired; but that the originals thereof shall not be removed from the files of the House.

In the Forty-fourth Congress this House, by resolution, authorized three of its members to answer a summons to testify before a grand jury of the District of Columbia. (Congressional Record, first session, Forty-fourth Congress, 1847.)

Your committee call attention to the fact that it does not appear that the production of this book is necessary to learn the truth as to any issue pending.

Your committee therefore report the following resolutions, with a recommendation that they do pass:

(1) *Resolved*, That by the privilege of this House no evidence of a documentary character under the control and in possession of the House of Representatives can, by the mandate or process of the ordinary courts of justice, be taken from such control or possession but by its permission.

(2) That when it appears by the order of a court or of the judge thereof, or of any legal officer charged with the administration of the orders of such court or judge, that documentary evidence in the possession and under the control of the House is needful for use in any court of justice or before any judge or such legal officer for the promotion of justice, this House will take such order thereon as will promote the ends of justice consistently with the privileges and rights of this House.

(3) That the Hon. John B. Clark, Clerk of the House, be authorized to appear at the place and before the officer named in the *subpœna duces tecum* before mentioned, but shall not take with him the book named therein, nor any document or paper on file in his office or under his control or in his possession as Clerk of the House.

(4) That the said court, through any of its officers or agents, have full permission to attend with all witnesses and proper parties to the proceeding, and then always at any place under the orders and control of this House, and take copies of any documents or papers in possession or control of said Clerk, and any evidence of witnesses in respect thereto which the court or other proper officer thereof shall desire, so as, however, the possession of said documents and papers by the said Clerk shall not be disturbed, or the same shall not be removed from their place of file or custody under said Clerk.

(5) That a copy of this report and these resolutions be transmitted to the said court, as a respectful answer to the subpœna aforementioned.

O

CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 386.

# INDIAN APPROPRIATION BILL.

ARY 11, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

VELLBORN, from the Committee on Indian Affairs, submitted the following

## REPORT:

[To accompany bill H. R. 5543.]

presenting the bill making appropriations for the current and con-
nt expenses of the Indian Department, and for fulfilling treaty
lations with various Indian tribes for the fiscal year ending June
87, the Committee on Indian Affairs submit the following report in
nation thereof:

e estimates upon which the bill is based are to be found on pages
145 (Estimates of Appropriations), and amount to $6,051,259.84,
ich the committee recommend $5,502,562.84, which is $548,697
han the estimates, and $274,888.37 less than the appropriations
e current year.

lowing is a statement showing the estimates for 1887, amounts
mended in the bill, and the appropriations for 1886:

*Recapitulation of the bill.*

| Purposes. | Estimates 1887. | Recommended 1887. | Appropriations 1886. |
|---|---|---|---|
| and contingent expenses | $215,300 00 | $209,300 00 | 219,800 00 |
| g treaties with and support of Indian tribes | 2,725,444 84 | 2,453,607 84 | 2,583,833 00 |
| neous supports | 1,173,500 00 | 1,061,300 00 | 1,224,883 21 |
| and incidental expenses | 159,800 00 | 132,000 00 | 134,300 00 |
| neous | 545,200 00 | 452,000 00 | 434,400 00 |
| of schools | 1,137,075 00 | 1,099,415 00 | 1,085,065 00 |
| on trust funds | 94,940 00 | 94,940 00 | 95,170 00 |
| and totals | 6,051,259 84 | 5,502,562 84 | 5,777,451 21 |
| of bill under estimates | 548,697 00 | | |
| of bill under law for 1886 | | | 274,888 37 |

he preparation of the bill the committee have endeavored to ob-
strictly the rule of the House which declares out of order any pro-
in a general appropriation bill changing existing law, and there-
he bill contains no new legislation.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 387.

# DUTIES OF ASSISTANT TREASURER.

FEBRUARY 11, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. TUCKER, from the Committee on the Judiciary, submitted the following

## REPORT:

[To accompany bill H. R. 5544.]

The Committee on the Judiciary, to whom was referred House bill 4875, respectfully report back the same with an amendment in the nature of a substitute, with a recommendation that it do pass.

By section 304 of the Revised Statutes it is enacted as follows: The Treasurer may, in his discretion, with the consent of the Secretary of the Treasury, authorize the assistant treasurer to act in the place and discharge any or all the duties of the Treasurer of the United States.

By section 302 the Treasurer is required to give bond for the faithful discharge of his duties in a penalty of $150,000.

By section 3600 the assistant treasurer is required to give bond for the faithful discharge of his duties in a penalty to be fixed by the Secretary of the Treasury.

By section 3613 it is provided as follows: "In case of the sickness or unavoidable absence of any assistant treasurer or depositary from his office, he may, with the approval of the Secretary of the Treasury, authorize the chief clerk, or some other clerk employed therein, to act in his place, and to discharge all the duties required by law of such assistant treasurer or depositary."

The official bond given by the principal of the office shall be held to cover, and apply to the acts of, the person appointed to act in his place in such cases. Such acting officer shall, moreover, for the time being, be subject to all the liabilities and penalties prescribed by law for the official misconduct in like cases of the assistant treasurer or depositary, respectively, for whom he acts.

The bill reported gives to the Treasurer the power to select some clerk, whom he shall, with the consent of the Secretary of the Treasury, appoint to act as assistant treasurer during the absence or illness of either the Treasurer or assistant treasurer.

This contingency has arisen of late, and the bill proposed remedies it by supplying the place with a clerk to be selected as above stated, and the bill proposes to subject their action to the conservative provisions of section 3600, by re-enacting the latter clause thereof in terms, and without referring merely to the act itself.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 388.

# UNITED STATES COURTS IN INDIAN TERRITORY.

FEBRUARY 11, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. ROGERS, from the Committee on the Judiciary, submitted the following

## REPORT:

[To accompany bill H. R. 5545.]

The Committee on the Judiciary having had under consideration House bills 3211 and 5123, report the accompanying substitute therefor, and recommend its passage.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 389.

# TO EXTEND THE LAWS OF THE UNITED STATES OVER TERRITORY SOUTH OF THE STATE OF KANSAS.

FEBRUARY 11, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. E. B. TAYLOR, from the Committee on the Judiciary, submitted the following

## REPORT:

[To accompany bill H. R. 679.]

*The Committee on the Judiciary, to whom was referred the bill (H. R. 679) to extend the laws of the United States over certain unorganized territory south of the State of Kansas, have had the same under consideration, and beg leave to report:*

That the unorganized territory south of the States of Kansas and Colorado, and between the Indian Territory and New Mexico, is not at present attached to any judicial district. A quite considerable population reside in this district, and it is infested with fugitives from justice and is a safe harbor for lawless persons.

The exterior lines of the townships have been surveyed, but not the subdivisional lines. In view of the fact that this country may be early opened to entry, an amendment has been suggested to the bill by the Commissioner of Public Lands, which has been added to the bill as a proviso, and your committee recommend the passage of the bill as amended.

For the purpose of information your committee attach a letter of Commissioner Sparks, furnished by the Hon. L. Q. C. Lamar, Secretary of the Interior, which is as follows:

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
*Washington, D. C., January 29, 1886.*

SIR: I am in receipt, by reference from the Department for report, of a letter from Hon. E. B. Taylor, of the committee of the House of Representatives, transmitting a copy of H. R. 679, "to extend the laws of the United States over certain unorganized territory south of the State of Kansas."

Mr. Taylor requests "such information as may be at hand in regard to the condition of the territory affected by the proposed legislation, including the reason of the present status of this region."

I have the honor to state that the territory named lies between the one hundredth and one hundred and third meridian, and between latitude 36° 30′ and 37° north. It was formerly a part of the Mexican possessions, and was derived by the United States from cession by Texas, under the provisions of the act of Congress of September 9, 1850 (9 Stat., 446), subsequently accepted by the State of Texas, and announced in proclamation of the President of December 13, 1850. (9 Stat., 1005.)

This territory appears to have been excluded from the southern boundary of Kansas for reasons stated as follows:

The bill originally introduced in the Thirty-third Congress to organize the Territory of Nebraska, and the substitute reported from the Committee on the Territories, fixed the southern boundary of the proposed new territory on the line of 36° 30′. The eastern boundary extended to the western boundary line of Missouri. (Congressional Globe, Thirty-third Congress, first session, pp. 221, 222.)

On January 23, 1854, Mr. Douglas, of Illinois, in the Senate stated that the attention of the committee had been called by the chairman of the Committee on Indian Affairs to the fact that the line of 36° 30′ "would divide the Cherokee country,

where as by taking the parallel of 37° north latitude, as the southern boundary the line would run between the Cherokees and the Osages, and that the committee had therefore concluded to vary the southern boundary so as not to divide the Cherokee Nation by the terms of the bill." (Congressional Globe, Thirty third Congress, first session, p. 221.)

This action fixed the southern boundary of Kansas on the line of the thirty-seventh degree of latitude instead of 36° 30′, as originally proposed in the Nebraska bill.

The treaty of May 6, 1828, with the Cherokee Indians, setting apart for their use 7,000,000 acres of land within the limits of the present Indian Territory, stipulated that, "in addition to the 7,000,000 acres thus provided for and bounded, the United States further guarantee to the Cherokee Nation a *perpetual outlet west* and a free and unmolested use of all the country lying west of the western boundary of the above described limits, and as far west as the soveriegnty of the United States and their right of soil extend." (7 Stat., 57, 58.) See also treaties of February 14, 1833, and December 29, 1835. (7 Stat., 311, 314.)

It appears that the Cherokees claimed the "public-land strip," now so called, as the outlet above mentioned, and the official maps down to 1869 or later designated said strip as a part of the Indian Territory. I have not found in the records of this office any expressed reason why this strip was so designated on the maps, nor why that designation was changed upon maps published after 1869.

In a letter from this office, dated October 25, 1882, addressed to Mr. W. A. Starr, Oswego, Kans., it is stated that as the jurisdiction of the United States at the date of the treaties of 1828, 1833, and 1835 extended only to the one hundredth meridian; no subsequent acquisition of territory by the United States could extend the rights of the Cherokee Nation beyond that limit.

By the act of March 3, 1881 (21 Stat., 451), an appropriation was made for the survey of meridian and township lines in said strip, and such surveys have been executed.

The Commissioner of this office in his annual report for 1884 stated as follows:

"Exterior surveys of the public-land strip west of the Indian Territory have been made, and the district is rapidly filling up with settlers and stockmen, between whom conflicts have occurred for possession of the country. A considerable portion of the land is reported to have been illegally fenced. I have recommended the attachment of this strip to the adjoining district of Kansas, and it is desirable that early action be taken in order that the lands may be opened to legal entry."

The tract is 167 miles in length by 34½ in breadth, and contains an area of 3,687,360 acres, sufficient for 23,000 farms of 160 acres each. It is my general information that the lands are well watered, productive, and valuable; that the entire tract is illegally occupied by cattle companies, who are reported to have fenced in the whole of the territory, and persons who have attempted to make settlements therein have complained that they have been prevented from doing so, and in some instances have alleged that their improvements have been destroyed by the employés of such companies. Not being attached to any State or Territory for judicial purposes, such inhabitants or occupants as may be there are without the protection or the restraint of the laws.

The proposed bill would take this unorganized territory out of its anomalous condition to a certain extent, and open the lands to entry. It is my opinion that in bringing this body of land into a condition to be legally settled upon, care should be taken to secure actual settlement and inhabitancy, and prevent the legalization of its appropriation for antagonistic purposes. Lands adapted for homes and which are not already covered by some pretended claim, or rendered unavailable by the control of the water supply or otherwise, are rapidly disappearing, and it is my opinion that public policy and public necessity alike demand the preservation, for actual inhabitancy, of all lands that now may be or which may hereafter become subject to public land entry.

I therefore respectfully recommend that the proposed bill be amended by adding a proviso to the following effect:

"*Provided, however,* That said lands shall be subject to entry only by actual settlers under the homestead laws, and that no patent shall be issued for any lands so entered until after five years actual residence thereon, to be ascertained under such rules and regulations as may be prescribed by the Commissioner of the General Land Office and approval of the Secretary of the Interior."

It is further to be observed that the bill under consideration makes no provision for the establishment of civil government. It is apparent that an actual inhabitancy of the lands will make the machinery of town organization and of other municipal functions an early necessity.

Very respectfully,

WM. A. J. SPARKS,
*Commissioner.*

Hon. L. Q. C. LAMAR,
*Secretary of the Interior.*

CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
t Session. } { No. 390.

# ?-CANAL CONNECTING DELAWARE RIVER WITH THE ATLANTIC OCEAN.

ARY 11, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

ATKINSON, from the Committee on Railways and Canals, submitted the following

## REPORT:

[To accompany bill H. R. 2049.]

*Committee on Railways and Canals, to whom was referred the bill . R. 2049) to authorize a survey of a route for a ship-canal to con- t the Delaware River with the Atlantic Ocean, submit the following ort :*

e committee having had under consideration the provisions of e bill No. 2049, have come to the conclusion that a survey of a to connect the Delaware River and the Atlantic Ocean by a ship- l should be made in the interests of commerce. They are convinced such a line can be found by survey and examination to be entirely ble, and that through the Engineer Department of the Army such mation can be furnished the House of Representatives as will ena- to act intelligently upon any proposition which may hereafter be nted for the commencement of the actual work of construction. xamination of the topography of New Jersey shows natural water- flowing westwardly into the Delaware River, as well as others ng in an easterly course into the bays emptying into the Atlantic n, which would greatly facilitate the construction of the canal mplated, and that its completion would lessen distance greatly een the river Delaware and the ocean, saving on the Atlantic coast st 50 miles of dangerous navigation, and upon the Delaware Bay River, to the vicinity of Camden, N. J., some 95 miles. The length e canal would not be more than 60 miles. The committee recom- an appropriation of $20,000 for making the survey and examina- and urge the importance of having its results and the estimates nstruction submitted to the House of Representatives during the nt session of Congress, if practicable.

C

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 391.

# PUBLIC BUILDING AT ASHEVILLE, N. C.

FEBRUARY 11, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. T. D. JOHNSTON, from the Committee on Public Buildings and Grounds, submitted the following

## REPORT:

[To accompany bill H. R. 5546.]

*The Committee on Public Buildings and Grounds, having had House bill 1697 under careful consideration, submit the following report:*

A similar bill providing for the erection of a public building at Asheville, N. C., passed the Senate of the Forty-sixth, the Forty-seventh, and the Forty-eighth Congresses, and in each of said Congresses received a favorable report from the House Committee on Public Buildings and Grounds, but failed to pass because it was not reached on the House Calendar.

As your committee, after careful consideration, have arrived at the same conclusion, they annex herewith a copy of the report of the committee of the Forty-eighth Congress for information, and which they adopt as part of this report, with the following additional statement of facts as ascertained by this committee, viz:

That since the date of said report the Asheville and Spartanburg Railroad therein mentioned has been completed, and the branch of the Western North Carolina Railroad is now running within a short distance of the North Georgia line; that the shops and offices of said railroad company are to be located in said city; that among other costly buildings constructed in said city there is now being built a large hotel at a cost of $100,000; that the population, business, and wealth of the city is rapidly and constantly increasing; that the rents of the offices and buildings used by the Government are also increasing; that on account of the establishment of additional State courts held in said city it often occurs that the terms of the United States circuit and district courts conflict with those of the State courts, in which case the United States courts are held in some other hall, at much inconvenience and annoyance; that the business of the United States circuit and district courts has increased; that there being no spare rooms in the county court-house. the office of the clerk of said courts, together with all their records, have necessarily been removed to rooms in the second story of a brick building at a distance from the court-house, where they are without protection, and in case of fire their destruction would be inevitable.

Your committee are of the opinion that it would be great economy in the Government to erect a building such as indicated in the accompanying substitute for House bill 1697, and they therefore recommend its passage.

[House Report No. 1298, Forty-eighth Congress, first session.]

*The Committee on Public Buildings and Grounds submit the following report upon the bill (H. R. 1125) to provide for a public building at Asheville, N. C.:*

By the act of June 4, 1872, the State of North Carolina was divided into two judicial districts, Asheville being situate in about the center of the "western district." This division divides the State, as to territory and population, almost equally, there being forty-five counties in the western district, comprising an area about 300 miles in length and about an average of 150 miles in width. The business done in the United States courts at Asheville comes from about thirty counties of the district, the balance of the district going to Greensborough, Statesville, and Charlotte.

There is no Government building within this vast territory west of Greensborough, the almost entire body of the western district being *west* of Greensborough.

Much the largest portion of the business of the district, both criminal and civil, is done at Asheville, being the central point. The report of the Attorney-General shows that the causes pending in the "western district," in which the Government is a party, are largely in excess of those pending in the "eastern district." It appears that while the court is held in four places in the said western district, the greater portion is done at Asheville, there being as many as from 400 to 500 cases on the docket at that place at one time.

The city of Asheville, with its adjacent growing villages, has a population of from 6,000 to 8,000, and now rapidly increasing in consequence of its peculiar geographical and commercial position.

The Western North Carolina Railroad reaches Asheville, and there diverges, one branch going north, via Knoxville, and within 18 hours' run of Louisville, Ky., the other going west towards the North Georgia line; while the Asheville and Spartanburg Railroad only wants the completion of twenty miles to connect Asheville with Charleston, S. C., by a travel of 12 hours or less. Asheville is, therefore, the center of this great western portion of North Carolina, through which the great railroad lines mentioned must pass. Other railroads are in progress destined to reach this point.

Asheville is a great summer resort, having several of the finest hotels in the State, and is easily accessible from all directions.

Sixty or seventy mercantile establishments, including several wholesale houses, are being supported in the city. There are four or five large warehouses for the sale of leaf tobacco, while several tobacco manufactories are engaged in the manufacture of tobacco. It is the center and terminus of nine different mail routes, and the post-office receipts and disbursements, including the money-order business, amount to about $128,000 annually. The Post-Office Department, the Internal Revenue Department, and the Judiciary Department all have offices kept from year to year in the city at an estimated cost of $1,400 for rents. It appears that the district and circuit courts are held twice in each year, and that the State courts have, in some instances, given way to accommodate the United States courts.

The committee are of the opinion that it would be economy in the Government to erect a building such as indicated in the accompanying substitute, and they therefore recommend its passage.

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 392.

# TENSION OF PUBLIC BUILDING AT BELFAST, ME.

ry 11, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

LLIKEN, from the Committee on Public Buildings and Grounds, submitted the following

## REPORT:

[To accompany bill H. R. 1027.]

*mmittee on Public Buildings and Grounds, to whom was referred ill (H. R. 1027) to provide for the extension and repair of the public ing at Belfast, Me., submit the following report:*

the public building at Belfast, Me., is used for a custom-house st-office, the post-office occupying the first or lower story of the g, and the custom house occupying the second story.

site for this public building was purchased October 4, 1856, at a $5,000. The building was immediately thereafter erected at a construction of $30,983.26, and the entire cost of the building and clusive of repairs to the present time, is $41,848.11.

building, which very well answered the purposes for which it was icted at the time it was built, is entirely inadequate for the pur- f the post office now.

dimensions of the general business room of the post-office are 24 inches by 16 feet 6 inches; the dimensions of the money-order re 16 feet 6 inches by 8 feet 9 inches, and these rooms cannot be d. The distributing table, desk, safe, side tables, letter case, mping table occupy so much space in the general business room post-office that there is barely room left to move about in to do rk of distributing letters, and the work of the office is done with nconvenience in a place so crowded.

ldition to this we find that the postmaster has no separate room h he may make up his returns, which work has to be done in the d general business room of the post-office, and the money order so small and crowded that there is hardly room to open the while even one person is sitting at the table to send or receipt ney-orders.

he room that can be appropriated for boxes is now used, and yet one hundred more boxes than the post-office now has, it is be- would be rented and used if they could be put up.

present public building is a brick, fire-proof structure, with ample s for its extension, and of such shape that it can be extended t marring its architectural proportions and appearance. The red granite, which is the base of the fence inclosing its grounds,

could be used for the foundation of the extension of the building, the fence is not needed. The business of the post-office is as follc

The Belfast post-office is the distributing office for the following of in Waldo County, fifty-four in all:

Lincolnville, Centre Lincolnville, Islesboro', Nopthfort, East N port, Belmont, East Belmont, Palermo, East Palermo, North Pale Montville, North Montville, Centre Montville, South Montville, Lib South Liberty, Searsmont, West Searsmont, Freedom, Knox, Mo Waldo, Waldo Station, Burnham, Troy, West Troy, East Troy, C Troy, Jackson, East Jackson, Thorndike, Thorndike Station, East Tl dike, Brooks, South Brooks, Monroe, North Monroe, Centre Mo North Winterport, Ellenwood's Corner, White's Corner, Winter West Winterport, Frankfort, Prospect Ferry, Sandy Point, Pros Stockton, Searsport, Swanville, North Searsmon, East Knox, U North Searsport.

In addition to the foregoing, is the general transmission of mail ter. Seven daily mails and one weekly mail arrive and depart. D the last year there were 812 registered letters and 3,121 money o and postal-notes. Gross receipts, $5,690.72; net receipts, $2,290.

The Treasury Department sent a skilled architect to examine public building last year, who reported that the building ought extended, and submitted plans and estimates. An appropriati $15,000 for this purpose has been recommended by the Superv Architect and the Secretary of the Treasury, and was put into the mates to be put into the sundry civil bill, but it is decided that is required for this appropriation under the present rules of the H

Your committee would therefore recommend that House bill 102 companying this report, do pass, limiting the cost of said extension repairs when completed to the sum of $15,000.

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ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 393.

# PUBLIC BUILDING, SAVANNAH, GA.

ARY 11, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

EESE, from the Committee on Public Buildings and Grounds, submitted the following

## REPORT:

[To accompany bill H. R. 5547.]

*Committee on Public Buildings and Grounds, to whom was referred bill (H. R. 3880) providing for the purchase of ground and the erec- of a building thereon for a post-office, and for the accommodation the United States courts at the city of Savannah, State of Georgia, mit the following report:*

e United States Government, about forty years ago, erected a granite ing in Savannah, to be used as a custom-house and for the holding in of the United States circuit and district courts, and as a post- . The post-office was in the basement, or on the first floor; the ctor's offices and United States marshal's office were on the sec- floor, and the third floor was used by the courts. The bonded house was on the first floor. The post-office was dark and always , and wholly unsuited for the purpose. The court-room (on the floor) was found, from its first occupation, to be unfitted for the er hearing of cases. This room is on the corner of two streets, h are the principal avenues of the commerce of that city, and as f them is paved with stone, the almost incessant roar from drays wagons frequently interrupts the business of the court. This is the now. Another and remediless difficulty and obstruction to judicial ness exists in the acoustics of the court-room. Two experiments been made by the Government to prevent this difficulty, and both wholly unsuccessful.

ur committee had before them letters from several judges who have ided ever the circuit and district courts in that room, and among are Mr. Justice Bradley and Mr. Justice Woods, of the United es Supreme Court, and Hon. John Erskine, retired United States e. And without further remarks on this head, your committee say such a room for holding the United States circuit and district court liscredit to this Government.

ur committee beg leave to submit the full text of the letters of Justice Bradley and Hon. John Erskine as a part of their report. would submit, also, Mr. Justice Woods's letter had they it in hand, gh it is of the same purport as the two letters submitted. Mr. ce Woods says that the United States court-room in Savannah worst for holding court in the whole of the fifth United States

judicial district, which extends from the Savannah River to the Rio Grande.

After the war, when the internal-revenue system was extended South, the Government moved the post-office from the basement of the customs building into a rented house and occupied said basement for the internal-revenue service, and it is so used now.

The post-office is, and for many years has been, in the basement of a rented building. The delivery department is entered by five or six descending steps; the room is dark and poorly ventilated, and the space where mail bags are received and emptied, letters assorted and stamped and delivered, and key-boxes stationed is about 83 by 18 feet. In fact, all the business of the office, which serves about 60,000 people and is, besides, a distributing point for a large territory, is done in the small room, excepting the sale of stamps, registering of valuable packages, and the issuing of money-orders.

Besides the inadequacy of this basement room, the situation of it is most inconvenient for the ladies of the city. It is on the same noisy street which the custom-house is on, which street is next to the river, and one on which ladies object to walking. The location of the post-office, therefore, is so objectionable that ladies rarely go to it to post or receive letters.

Your committee are convinced that a building for holding United States courts and for a post-office in Savannah is a necessity. The custom-house, being built of granite and iron and brick, so as to be fire-proof, could not be remodeled for that purpose, even if it was located in a quiet part of the city. A court-room with the objections pointed out by the three judges named is a reproach to our Government. It is a denial of justice to all parties to a suit for a judge and jury to sit in a room where the judge must leave the bench and sit or stand by the jury in order to he heard, and where counsel, witnesses, jurors, and judge are straining to hear what is said, and where the judge must suspend proceedings to wait until the roar of wheels dies away.

Your committee therefore report back House bill 3880 with a substitute therefor, and recommend that the substitute do pass.

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SUPREME COURT OF THE UNITED STATES,
*Washington, February* 8, 1886.

DEAR SIR: I remember perfectly well the disagreeable surroundings of the court-room. The noise was sometimes deafening, and the location and place of the building are very unfitted for its purpose. I often pointed out the old bank building (I think it was), and asked different persons why that could not be got temporarily. The Government is not so poor that it cannot furnish decent and commodious buildings for the use of the courts, and, by the way, I think this economical plan of erecting but one Government building for post-office, collector's office, and courts is most objectionable. The result is that the court-rooms, clerk's offices, &c., are always incommoded by other things. The location of the courts in a high third story, unless there is an elevator in the building, is excessively onerous to the court, the jurors, and the attendants. The judges are generally men advanced in life, and to relegate them to a garret is cruel and unjust. I hope you will succeed in getting something done. I used often to speak about it with Judges Woods and Erskine.

Very respectfully, yours,

JOSEPH P. BRADLEY.

Hon. T. M. NORWOOD.

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SAVANNAH, GA., *February* 1, 1886.

DEAR SIR: In regard to the United States court-room in this city, in which I sat as a judge for nineteen years, I have to say that the Federal building was, I think, erected about the year 1837; two sides of it abut on the most commercial streets in the city;

se and rumbling of drays and wagons during the day is so continuous and loud
hear at all in the court-room the windows on two sides have to be kept closed,
nsequently the room is deprived of fresh air, and at times is really stifling.
rer, it seems to me, if I may judge from my long experience, that the architect
olated every canon in the science of sound; the acoustics of the room are simply
much so that it is often impossible for the ordinary ear to hear the judge,
l, or witness; and, in many instances, that the jury might hear the charge of
urt distinctly, I have left the bench and sat near the panel; this necessity, to
e least, was awkward. When I became judge there was a large dome in the
room; to remedy the acoustics, this was done away with and the roof elevated;
ange made matters worse instead of better.
office rooms are insufficient in number, and too small for the transaction of the
business.
I remain, dear sir, your obedient servant,

JOHN ERSKINE,
*Retired United States Judge.*

THOMAS M. NORWOOD, M. C.,
*Washington, D. C.*

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 394.

# PUBLIC BUILDING AT SAN ANTONIO, TEX.

FEBRUARY 11, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. REESE, from the Committee on Public Buildings and Grounds, submitted the following

## REPORT:

[To accompany bill H. R. 5548.]

*The Committee on Public Buildings and Grounds, to whom was referred the bill (H. R. 2393) to provide for a public building at San Antonio, Tex., submit the following report:*

A bill similar to the present measure passed the Senate of the Forty-eighth Congress at its first session, and one of like character was favorably reported by this committee about the same time, but, from some cause unknown to the committee, was not called up in the House.

San Antonio, according to the census taken by the city authorities for scholastic purposes, about a year since, had then a population of more than 39,000. This population is rapidly growing and shows an increase over the census taken in 1880 of near 20,000. The assessment rolls of the city for the year 1885 show the valuation of the property, within the city limits, to be $15,075,054 subject to taxation, being an increase of $6,638,498 over the assessment of 1880.

Two long lines of railway—the one connecting Saint Louis, Mo., and Laredo, Tex., and forming direct connection with Monterey and Saltillo, Mexico; the other known as the Southern Pacific and connecting New Orleans, La., with the Pacific coast—intersect each other at this place, and a third railroad is now being rapidly built from San Antonio to Aransas Pass on the Gulf of Mexico, to be afterwards extended to the Northwest.

The business of the city is rapidly accumulating, and each year adds largely not only to its population but also to its taxable property. San Antonio is well supplied with a good system of street railways, and is the headquarters of the Military Department of Texas, with quartermaster, commissary, and ordnance stores for general distribution, and a post is being built to accommodate twelve companies of troops. The United States circuit and district courts are also held at this place.

The excess of the receipts over the expenditures of the post-office for the year ending November 15, 1885, was $19,573.70; the number of money-orders and postal notes issued were 14,449, and covered the amount of $212,506.81; and the number of money-orders and postal notes paid was 20,177, and covered the amount of $366,700.85; the number of post-offices depositing surplus money-order funds at San Antonio, is 26.

GRESS, } HOUSE OF REPRESENTATIVES. { REPORT
sion. } { No. 395.

# COURT-HOUSE AT KEOKUK, IOWA.

RY 11, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

ORTHINGTON, from the Committee on Public Buildings and Grounds, submitted the following

## REPORT:

[To accompany bill H. R. 4498.]

he Committee on Public Buildings and Grounds, to which was re-red the bill (H. R. 4498) authorizing an additional appropriation of ,000 for the court-house at Keokuk, Iowa, to make the same fire-oof, report back the same with a recommendation that the same do ss.

It appears that in preparing the plans the architect was not able, ith the amount of the appropriation, to construct a building contain-ng the requisite room for post-office and court-house and also make the ame fire-proof. This small appropriation will enable that to be done, nd also secure the building when constructed against destruction by re.

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 396.

# PUBLIC BUILDING AT PEORIA, ILL.

RY 11, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

ORTHINGTON, from the Committee on Public Buildings and Grounds, submitted the following

## REPORT:

[To accompany bill H. R. 368.]

*ommittee, to which was referred the bill (H. R. 368) to extend the ation for the erection of a public building at Peoria, and to purchase tional grounds therefor, reports as follows:*

original bill provided for the erection of a public building at a $225,000. Of this amount about $40,000 has been expended for leaving $185,000 for erecting and completing the building. were drawn and contracts let looking to this limit; but these ed for a building of two stories only. It requires all of one story accommodation of the post-office and all of one for the revenue , leaving no accommodation for Federal courts whatever, unless l story was erected. It was also found after the building was in s of erection that the first story, designed for the post-office, was y inadequate for the accommodation of this department.

railroads diverge from Peoria, making it a great railroad center istributing point for mail matter. The room afforded by the new ng for the post-office is no greater than that now furnished by the building used for that purpose, which is entirely inadequate even esent population and business of the city of Peoria. The gross ts of the post-office for the last year were $68,170, and the net re- $46,083. The only way to remedy this lack of room for postal ies is by building a one-story annex. To do this additional ground uired.

internal revenue collected at Peoria is greater than at any other n the United States, being for the last year over $13,000,000. of course, requires a large force of clerks in connection with the tor's office, and of store-keepers and gaugers, who have almost business with the office.

population of Peoria is about 45,000, and is rapidly increasing. ill reported, as amended by your committee, limits the amount to pended in purchasing additional ground to $16,000, which amount committee believes will be sufficient for that purpose. This leaves additional $50,000 asked for $34,000 for the erection of said pro- annex and the completion of the original building, making the cost $275,000, an amount which your committee deems very rea- le for the largest internal-revenue tax-paying city in the United s.

In view of these facts your committee recommends the passage of bill, with the following amendment: After the word "annex," in twelfth line of section 1, add the words "said additional ground n cost over $16,000, and no money appropriated for this purpose sha available until a valid title to said additional ground shall be vest the United States, to be approved by the Attorney-General"

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 397.

# PUBLIC BUILDING AT WILLIAMSPORT, PA.

FEBRUARY 11, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. W. W. BROWN, from the Committee on Public Buildings and Grounds, submitted the following

## REPORT:

[To accompany bill H. R. 2148.]

*The Committee on Public Buildings and Grounds, to whom was referred the bill (H. R. 2148) to amend an act to provide a public building for the use of the United States circuit and district courts, post-office, and other Government offices at Williamsport, Pa., and making additional appropriations therefor, respectfully submit the following report:*

That in the first session of the Forty-seventh Congress a bill was introduced and passed the Committee on Public Buildings and Grounds, appropriating what was at that time deemed a sufficient sum to purchase grounds and erect the proper building thereon. This bill was, however, amended in the House reducing the amount to $100,000. Under the provision of this act more than a year's time was spent in trying to secure a location for a price that the limited appropriation would justify for ground expenditure. One location was fixed by a commission appointed for the purpose, but was rejected by the Secretary of the Treasury for the reason that the price charged for it was so great that the money left after paying for the same would not construct a building anywhere near the capacity demanded by the present wants of the district to be benefited.

A second location was finally fixed upon and the purchase of a lot made, but as it only includes part of a square and is cut off by a strip of 70 feet frontage from one of the streets bordering it, the Supervising Architect, with the approval of the Secretary of the Treasury, recommended the postponement of the plans for the building and the purchase of material, until, if possible, further appropriation could be secured through act of Congress. Accordingly, in the Forty-eighth Congress a bill was introduced and received a unanimous report from the Committee on Public Buildings and Grounds in its favor. A portion of this report is incorporated herein and adopted by this committee:

> The city of Williamsport is one of the most rapidly-growing cities in Western Pennsylvania. It had in 1880 a population of nearly 19,000, and at present is the center of a lumbering business equal to that of any city east of the Allegheny Mountains.
>
> The internal-revenue receipts for 1882 were $242,357; for 1883, $252,387.
>
> An appropriation was made in 1882 of $50,000, and the limit fixed for the whole building and grounds at $100,000. A lot of 130 feet front has been recently purchased, but it is separated from the west side of the square by a lot of 70 feet frontage. By purchasing the latter, the whole square, 200 by 204 feet, will belong to the Government, and the building can then be located beyond external fire hazard and so as to command the view of the streets converging at this point. In his letter upon this point, the Supervising Architect states that "the limit of $200,000 stated in the bill, including site, would be no greater sum than is necessary for the erection of a suitable building for the purposes required."

Twenty counties in the State of Pennsylvania are dependent upon the United States courts located at Williamsport as the place to trans-

act such legal business as they have in these courts. They are the counties of Bradford, Cameron, Centre, Clearfield, Clinton, Columbia, Elk, Juniata, Lackawanna, Luzerne, Lycoming, McKean, Mifflin, Montour, Northumberland, Potter, Snyder, Sullivan, Susquehanna, Tioga, Union, and Wyoming, and contain an area of 15,458 square miles.

This district had a population in 1880 of 834,490. It includes the largest share of the great anthracite coal region of the State, and has ten bituminous coal-producing counties within its limits. Many of the counties have extensive lumbering and bark interests, the counties of Cameron, Clearfield, Elk, McKean, Potter, and Tioga containing more timber and bark than all the other counties in the State of Pennsylvania. Williamsport is the central point for the manufacture of this great product, and has manufactured during the last ten years from four to five hundred million per annum. That city contained near 20,000 population in 1880, and by recent estimates and thorough canvass in making up directories this year, fixes the population between 28,000 and 29,000. Within the past two years more than nine hundred new buildings, at a cost of $1,300,000, have been constructed. Within the same time a new bridge across the Susquehanna has been built at a cost of $35,000. An electric-light plant, with a paid-up capital of $75,000, and a public steam-heating plant, with a paid-up capital of $100,000, have within the past year been put in operation, and within the same time 2 miles of pavement have been laid. The receipts of the post-office in Williamsport during the year 1885 amounted to the sum of $29,204.23, being an increase over the year 1884 of $495.34, and the net income to the Government during 1885 over all expenditures was $16,183.83.

The county of McKean, located within this Congressional district, is by far the largest, petroleum producing county in the United States. Indeed, during the last decade, from one-half to two-thirds of all the oil produced in this country came from territory within the limits of McKean County. Petroleum is now one of the largest exports of American product. Since 1881 it has averaged above $48,000,000 annually, and for the year 1885 it was above $49,000,000. When it is remembered that a single county in the Sixteenth Congressional district produces more than half of this export trade each year, something of the necessities for proper court facilities may be understood. The counties comprising the district to be benefited by the construction of a United States court building at Williamsport are, most of them, the old counties of the State, and with all their several interests to be settled in the United States courts, up to the present time no place has been provided for the reception or protection of court records, though there is now the accumulation of forty years.

It is believed that notwithstanding the large revenues derived to the Government from the various products of nature and the taxes paid by its people, not a single dollar, prior to 1882, when the first appropriation for this building was authorized, has ever been made for public improvements within the limits of the Sixteenth Congressional district of Pennsylvania. That the great demands for a court-house and post-office be supplied at as early a date as possible, and that the building when constructed shall be adequate to the wants of the near future, as well as the present.

The committee report favorably on this bill and recommend its passage, with the following amendments to section 1: In line 12 strike out the word "fifty" and insert the word "twenty-five," and in line 9, between the word "hundred" and the word "thousand," insert the words "and twenty-five."

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 398.

# PUBLIC BUILDING AT ROCHESTER, N. Y.

FEBRUARY 11, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. WILKINS, from the Committee on Public Buildings and Grounds, submitted the following

## REPORT:

[To accompany bill H. R. 5549.]

*The Committee on Public Buildings and Grounds, to which was referred the bill (H. R. 1570) to increase the appropriation for the erection of the public building in Rochester, N. Y., respectfully reports:*

That on the 7th day of August, 1882, an act was passed by the then Congress making an appropriation for the purchase of a site for a public building in Rochester, N. Y., of $150,000.

That the site was purchased, and subsequent appropriations by Congress aggregating $150,000 were made to erect the building thereon, which was thereafter commenced under plans and specifications made and approved by the Supervising Architect.

Owing to the law which forbids the letting of a contract for a public building at a sum exceeding the appropriation, the plans and specifications were drawn and made with reference to the limited sum appropriated, and the work had progressed at the commencement of this winter only to the top of the first story, when the progress of the work was suspended for the winter. The site affords ample ground room for the proposed enlargement.

Rochester is a city of over 100,000 inhabitants and rapidly growing. The post-office at present occupies rented quarters of insufficient capacity, and in area uses 6,687 square feet, while the working space in the proposed public building will be only 3,454 square feet, about one-half the present insufficient area.

The accommodations in the proposed new building for the other departments of the public service which must be provided for, namely, the custom-house, the internal-revenue offices, the Federal courts and various offices relating thereto, are wholly inadequate.

This state of things is chargeable solely to the existing laws which compel the plan, specifications, and contracts all to be made with regard to amount of existing appropriations for the express purpose. The matter in a general way is tersely stated and the evils of the existing system vividly illustrated by the Supervising Architect in his able annual report for 1885, recently submitted to Congress.

It is evident to your committee that the original appropriation for the public building in Rochester, with its great and growing industries and rapidly increasing population, should have been not less than the amount asked for by this substitute bill.

The completion of said building without the suggested enlargement

would be unwise in the extreme. The additional appropriation asked for should be promptly made, so as to enable the spring work to be commenced and carried on with reference thereto. This additional appropriation is approved by the Supervising Architect.

The accompanying petition signed by a considerable number of the leading and wealthy citizens of Rochester, representing, as we are advised, the public sentiment in regard to the matters therein stated is respectfully submitted as part of our report, also the accompanying communication from the Supervising Architect, approved by the Secretary of the Treasury.

We respectfully recommend the accompanying bill as a substitute for House bill 1570.

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ROCHESTER, N. Y., *January* 4, 1886.

DEAR SIR: I have read the subjoined petition and hereby certify to the correctness of the figures given therein.

Very respectfully,

OSCAR KNEBEL,
*Sup't of Construction, U. S. C. H., P. O., &c.*

Hon. CHARLES S. BAKER,
*Washington, D. C.*

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ROCHESTER, *January* 4, 1886.

SIR: Inclosed please find the petition promised, together with the architect's statements as to the dimensions of the present post-office and the new structure in process of erection. Hope your efforts will prove successful for a further appropriation of $300,000, as any one can see by a glance at the architect's measurement that the present appropriation is entirely inadequate towards finishing a public building that is needed in this city.

Very respectfully,

B. M. BAKER.

Hon. CHARLES BAKER,
*Washington, D. C.*

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*To the Congress of the United States:*

The undersigned, your petitioners, citizens of the city of Rochester, N. Y., respectfully represent that the public service comprising the departments of the post-office, the custom-house, and revenue offices, the Federal courts and offices relating thereto, cannot be accommodated in the public building, if erected and completed under the present plans or within the present appropriation; that the post-office, for instance, has now a working space of 6,687 square feet in Reynold's Arcade, and is inadequate to the needs of the city, with its population over 100,000, and rapidly increasing; but the working space in the proposed public building will be only 3,454 square feet, about one-half of the present insufficient area.

Your petitioners represent that the requisite enlargement of the building can be made on the present site, and is an imperative necessity.

Your petitioners therefore pray that the bill No. ——, for an additional appropriation of $300,000, may be, as speedily as possible, advanced to become a law.

(Signed:) H. S. Greenleaf, J. M. Davy, John Van Voorhis, Alfred Ely, Daniel T. Hunt, C. E. Morris, Henry S. Pierce, C. R. Parsons, mayor; D. W. Powers, Wm. Purcell, Gilman H. Perkins, Chas. Y. Burke, Geo. F. Danforth, James L. Angle, Geo. Raines, Thomas Rainey, William N. Sage, president of Municipal Reform League; Oscar Craig, M. Filon, N. P. Pond, H. O. Hathaway, Ellwanger & Barry, B. M. Baker, Henry E. Rochester, C. J. Hayden.

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TREASURY DEPARTMENT,
OFFICE OF THE SUPERVISING ARCHITECT,
*Washington, January* 23, 1886.

SIR: I have the honor to call your attention to the limit of cost as now fixed for the new public building at Rochester, N. Y.

The act of May 25, 1882, limits the cost of the site and building to $300,000. The

expended for the site was $75,630.43, leaving a balance of $224,370 as the cost uilding. The amount is now, and always was, totally inadequate to construct ing that would give sufficient accommodations to the Post-Office Department erly transact its business at the present time without considering the question e necessities.

a careful examination of the space required, in which the postmaster of the Rochester has been consulted, I believe it to be the poorest economy to re- e cost of the building to the present limit of cost. As the necessity for a new ce building at Rochester is undisputed, and has been recognized by Congress, dgment the building should be so constructed as not only to meet the present ies of the Government, but its future necessities, so that it will not have to be l within a few years after its completion.

s connection permit me to call your attention to the importance of fixing the f cost upon new public buildings with some relation to the necessities of the ent where the buildings are to be erected, as fully set forth in my two an- orts, so that plans may be prepared for a building that will intelligently pro- ommodations when completed without embarrassing this office by early alter- nd additions. I have therefore to recommend that Congress be asked to the limit of cost upon this building in accordance with the provisions of ill No. 1570, with the amendment that the amount fixed in said bill as the cost ($600,000) should include the approaches, heating apparatus, and ele-

espectfully yours,

M. E. BELL,
*Supervising Architect.*

ECRETARY OF THE TREASURY.

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 399.

# PUBLIC BUILDING AT DULUTH, MINN.

RUARY 11, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

. HENLEY, from the Committee on Public Buildings and Grounds, submitted the following

## REPORT:

[To accompany bill H. R. 5550.]

*e Committee on Public Buildings and Grounds, to whom was referred the bill (H. R. 1268) for the erection of a public building at Duluth, Minn., beg leave to report:*

Duluth is situated at the westernmost extremity of Lake Superior, in e State of Minnesota, and is next to the cities of Saint Paul and inneapolis in population and commercial importance. It has a large d commodious harbor, on which the city has expended over $100,000 d the Federal Government over $400,000. It is the terminus of four portant lines of railroad, viz, the Manitoba, the Omaha, the Saint aul and Duluth, and the Northern Pacific. Two other important lines railroad, with Duluth for terminus, are in process of construction d will be completed at an early day. It is the water outlet, down the kes and through the canals, to the sea-board for the produce of the rritories of Dakota and Montana and the State of Minnesota. Durg the year 1884 there was an arrival and clearance of 1,791 vessels, ith a tonnage of 1,167,192 tons, and during 1885 there was a large inease in this respect, but the exact figures are not yet at hand nor ade up. In 1881, 2,915,567 bushels of wheat were received and hanled; in 1882, 4,199,133 bushels; in 1883, 7,636,379 bushels; in 1884, ,500,000 bushels, and in 1885 about 16,000,000 bushels, and the larger rtion, indeed nearly all, of this wheat is shipped by water down the kes to the sea-board.

The gross receipts of the post-office at Duluth for the fiscal year endg June 30, 1885, were in excess of $20,000 per annum, thus entitling e city to mail-carrier or free-delivery service, which was established d has been in existence since the beginning of the present year. The owth of the town has been marvelous, rapid, and incessant since 1882, d there is no abatement or cessation in the growth. In 1880 the city d less than 4,000 people, while in 1885, by the State census then taken, appears to have a population of 18,000.

Duluth is a port of entry and has a custom-house, post-office, United tates signal office, and United States land office. The Government ys an annual rental for public offices as follows:

| | |
|---|---|
| stom-house | $600 |
| nd office | 300 |
| gnal office | 300 |
| st-office | 1,350 |
| Total | 2,550 |

The offices occupied by the custom-house and post-office are w insufficient, and larger, more commodious, and more ample qu will soon have to be secured.

In view of the foregoing facts, your committee are of the opinio a public building should be erected at Duluth, and therefore recom the passage of substitute for said bill.

'ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. { { No. 400.

# SAMUEL M. GAINES.

ɪʏ 11, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

RTIN, from the Committee on Patents, submitted the following

## REPORT:

[To accompany bill H. R. 821.]

'ommittee on Patents, to whom was referred the bill (H. R. 821) relief of Samuel M. Gaines, have had the same under considera- ıd now report the same to the House, with an amendment, and ıend its passage.

bill provides for an extension of the letters patent which were l to Samuel M. Gaines, numbered 85299, and dated December 29, r "method of teaching the rudiments of chemistry," for the period ı years from the 29th day of December, 1885. The committee have ined to recommend the passage of this bill, because, in their judg- t has merit; because the patentee has received no just remunera- his invention; and, lastly, because further time and labor, with ense incident thereto, will be required to make the said method ral utility to the public. Besides, it is not an article of manu- to be put on the market, and upon which the user might be taxed orm of royalty, but its object is to remedy and correct the sys- roduced by Berzelius, of illustrating chemical compositions and ıs to the eye by means of symbols and equations, which is too ab- or beginners, by means of a chemical alphabet, found by actual ıent to be far more efficient than any other method heretofore r such purpose.

ıd House bill 821 by adding to said bill the following words at the line 13: "And the Commissioner of Patents is hereby author- l empowered to grant an extension of the patent herein described period herein named."

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 401.

# KATE AMANN.

FEBRUARY 11, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MATSON, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 441.]

*The Committee on Invalid Pensions, to whom was referred House bill* 441, *beg leave to submit the following report:*

A similar bill having passed this committee and the House in the Forty-eighth Congress, and not having been reached in the Senate, your committee adopt the report of this committee of the Forty-eighth Congress, as follows:

That Kate Amann is the widow of Philip Amann, who was a private in Company D, Seventy-fifth Regiment Pennsylvania Volunteers, and who was discharged from the service February 25, 1863, on account of two gunshot wounds received at the second Bull Run battle, August 30, 1862, one ball having passed through the right leg, the other through the right foot. That he was pensioned on account of said wounds to date from the time of his discharge, and continued to receive a pension until the time of his death, November 15, 1880, which occurred in the following manner: The evidence shows the fact that, while engaged with others working in a stone-yard, the derrick used by them for moving and hoisting stone fell on the said Amann, crushing him to death. This accident occurred through no fault nor by any negligence on the part of the said Amann. And in the opinion of your committee, had it not been for his disabled condition caused by his wounds, he would have been enabled to escape the injury which resulted in his death; that those who were engaged with him at the time of his death, and who were exposed to the danger in as great a degree as the said Amann was, did escape death by reason of the fact that they possessed the full use of their limbs. Your committee further find that the said Amann was a sober and industrious man, of good moral character.

That the claimant, Kate Amann, is in reduced circumstances, supporting herself and family by washing and such other hard labor as she can get to do.

In consideration of all the facts, the committee recommend the passage of the accompanying bill.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 402.

# SAMUEL HANSON.

FEBRUARY 11, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 3100.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3100) granting a pension to Samuel Hanson, submit the following report:*

This soldier enlisted January 16, 1864, in Company D, Thirty-third Regiment Iowa Volunteers, and was mustered out with his company August 15, 1865. In 1870 he applied for a pension, alleging disability from lung disease; that in March, 1864, at Little Rock, Ark., he was attacked with lung fever from exposure while in service, which seriously affected his lungs, and from which he never recovered. The Adjutant-General's report shows that he was left sick at Little Rock March 23, 1864. The Surgeon-General's report shows that he was admitted to general hospital at Little Rock March 22, 1864, for treatment for "pleuro-pneumonia," and returned to duty April 11, 1864.

Riley Jessup, late captain of Company D, in affidavit made September 23, 1870, states:

At Little Rock, March, 1864, while in line of duty, claimant was attacked by lung fever, brought on by exposure in the service; said disease affected his lungs, and that they continued affected until discharge; that his lungs were not affected at the time of enlistment or prior to said attack of lung fever; that claimant was of good habits while in the service, and, in affiant's opinion, the disease was the result of unavoidable exposure.

Dr. D. A. Hoffman states:

Claimant was examined by me before he enlisted, for the purpose of ascertaining whether he was a sound man physically. That at that time he was not affected with any disease of the lungs. On his return from the service, immediately after his discharge, I treated him for disease of the lungs, which was the result of acute inflammation of the lungs, contracted while he was in service. I have treated him for the said disease at various times since September, 1865, to the present time (December, 1870), and that his disease still continues.

The testimony is ample and undisputed that his disease has continued ever since, except that Dr. Huntsman, of Oskaloosa, the examining surgeon, said in 1872 that he found no disease of the lungs. A few months later another examining surgeon says:

I find upon examination that the applicant has a deep, hollow cough, expectorating purulent and muco-purulent matter, night sweats, and emaciation; auscultation shows, in the upper portion of the left lung; cavernous râle; respiration and voice amphoric; dullness on percussion over the whole left lung; the lower portion very dull, and cannot ascertain that air passes into that portion of it. He is physically unable to perform manual labor.

A few months later Dr. W. S. Orr, examining surgeon at Ottumwa, reports him totally incapacitated from obtaining a sustenance by manual labor, and says the disability is probably permanent.

It would seem as though nothing was wanting to establish a case in the Pension Department, but two special examiners were sent out and a mass of contradictory evidence was submitted, and the case was finally rejected on the ground that claimant's lungs were affected when he went into service. If the evidence submitted by the special examiners proves anything it proves that the soldier was a weak man, physically unfit for the service when he was accepted; that he was a hale, hearty man after his discharge, working at heavy work in a stone-quarry and receiving full wages; that he was before enlistment a sound, rugged young man of excellent habits, and at the same time a confirmed drunkard; that he had a severe consumptive cough, and by other witnesses equally reliable it is proven that he "never had the least symptoms of anything being the matter with his lungs prior to his going into the Army; that he was frequently employed to chop wood and split rails, and was noted as a first rate wood-chopper." The Commissioner of Pensions in 1878 was evidently bewildered by this mass of contradictory evidence, for in a letter to claimant's agent he says:

> The invalid pension claim No. 162081, of Samuel Hanson, was rejected September 16, 1875, upon competent evidence (medical and lay) elicited by special examinations showing that the alleged disease was not due to the service; in other words, that his lungs were diseased at the time he enlisted, and that the principal cause of his disability was due to an attack of lung fever since his discharge. It is proper to add that an examination made March 2, 1872, fails to discover any disease of the lungs.

This is certainly being equal to the occasion. The disability existed before enlistment, the disability was caused by lung fever after enlistment, and finally the disability never existed at all.

The simple facts seem to be that some two months after enlistment the soldier had an acute attack of lung fever, from which he has never recovered, and that he is now totally incapacitated from performing manual labor. By the passage of this bill his few remaining years will be made comparatively comfortable. He loses the twenty years of arrears to which he seems to have been as clearly entitled as his more fortunate comrades who received them. Believing that simple justice requires that the Government should care for this soldier, your committee recommend the passage of this bill.

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CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 403.

# DANIEL B. RANDALL.

RY 11, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

DRRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4501.]

*mmittee on Invalid Pensions, to whom was referred the bill (H. R. ) granting a pension to Daniel B. Randall, submit the following rt:*

r committee find that claimant enlisted in Company A, One hun- nd second Illinois Volunteers, July 28, 1862, and was discharged i, 1865. On the 18th of July, 1879, he applied for pension, alleg- at "while in line of duty returning from hospital to join his regi- he fell, striking his right side on a stump, fracturing his ribs, caused epilepsy."

mant, in his affidavit, says:

on my way from a hospital in Jeffersonville, Ind., with a squad of convales- elonging to different regiments, and on their way to join their commands, ing only one from my regiment, a member of Company A, by the name of Dog- ho died within a month or two after at Gallatin, Tenn. I do not remember the f any of the persons belonging to the squad or the organizations to which they d, as they were all strangers to me. The only treatment that I received while ervice was occasional bleeding by the assistant surgeon, Dr. Hamilton, who, I en informed by comrades, died shortly after the close of the war.

family physician and three of his neighbors, who are reported as g excellent reputations, testify fully as to his soundness at enlist- and speak of such an intimate acquaintance with him that it seem to have been impossible for him to be affected with a dis- f that character without their having knowledge of it.

captain testifies that—

ant was away at hospital and returned between 26th of September and 15th of er, 1862. Several men were left sick at Frankfort, Ky., October 26, 1862, e regiment moved to Bowling Green and thence to Scottville, Tenn. Upon val of these men to join their companies this accident was reported. Further t know, except that said Randall did suffer from frequent fits of epilepsy from e until his discharge. He could have been discharged at any time after his s, but he would not make application for such discharge.

evidence of continuance of the disease from discharge to the t time is abundant and conclusive. The case was rejected in the n Office on the ground of "No record or other satisfactory evi- that alleged disability (injury to side and resulting epilepsy) was ed while in line of duty." This is strictly correct. There is no ce to show that claimant was in line of duty when he received

the fall. He gives good reasons for his inability to prove this, *i.* e fact that the squad of men under his charge was made up from dif commands, and that he cannot remember their names. Ever soldier can appreciate this reason.

But it is shown by overwhelming testimony that he was a s vigorous, healthy man of thirty years of age when he enlisted; he afterwards became subject to fits of epilepsy, which continued d the remainder of his service (more than two years), and that l been thus afflicted ever since. That he was a brave and gallant s is proven by the fact that though afflicted with this terrible mala refused to accept a discharge and served until the expiration term of service as a non-commissioned officer of his company. absolute proof of the fall is lacking, and it is not shown that received in line of duty, though that your committee feel can be assumed, for the proof is overwhelming that he incurred a terrib ease in the service, from which he still suffers.

Your committee feel that this is a case richly deserving the act Congress, and therefore recommend the passage of the bill.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 404.

# WILLIS W. FINK.

FEBRUARY 11, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4572.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4572), granting a pension to Willis W. Fink, submit the following report:*

We find that claimant enlisted August 1, 1861, in, and was discharged September 25, 1865, from, Company D, Forty-fourth Illinois Volunteers. That in 1879 he applied for a pension, alleging "that on the 24th day of June, 1864, at Marietta, Ga., while assisting to carry a log on top of the breastworks they were charged upon by the enemy, causing the men to let go the log, and the heavy weight came on him, by which he received a rupture of the left groin." This was rejected on the ground of no record and no testimony of eye witnesses showing when, where, and under what circumstances it occurred, &c..

Three comrades testify that claimant received an injury on the day and in the manner claimed by him. The regimental surgeon testifies that he examined him June 27, 1864:

> That claimant came to him complaining of pain in his right groin, and said the pain was aggravated by any exertion. Said he had felt the pain at the time and since a heavy lift on a log that they were placing on the breastworks that day. I examined the groin and found a tumor showing to me a disposition to hernia, and I put him off duty.

There is no evidence of medical treatment after service, but an abundance of lay testimony that the rupture existed in service and at time of discharge. The examining surgeon in 1881, and a board of examining surgeons in 1884, describe the hernia. The latter say:

> We find oblique inguinal hernia of right side, with opening that is difficult to retain with a truss.

The case seems a very strong one. The proof is not positive, for no one saw him in a nude state the instant before the injury and immediately after, but there can be no question that he was injured at the time he claims. He was then on his fourth year in the service, and it is hardly supposable that he had suffered all that time from rupture without its being known in his company. That it existed at time of discharge is admitted by the Department.

Your committee recommend the passage of the bill.

CONGRESS, Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 405.

# ROBERT MORAN.

RY 11, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

ORRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT·

[To accompany bill H. R. 5551.]

*ommittee on Invalid Pensions, to whom was referred the bill (H. R. ) for the relief of Robert Moran, submit the following report:*

r committee find that Robert Moran was lieutenant-colonel of the d West Virginia Volunteers. Was mustered July 4, 1861, and ischarged May 19, 1862. In 1876 he applied for a pension for a, which was allowed, and he received $15 per month from dis- e until 1880, and since that date $30 per month. This bill asked e be paid the difference between $15 and $30 from the date of his arge till 1880. As the rating seems to have been made in accord- with existing laws and the reports of the examining surgeons, ommittee can see no reason why the bill should pass in its present But the evidence discloses the fact that he has been a great suf- for many years; that at times he needs the aid and attention of er person, and that at no time is it safe for him to be left alone. examining surgeon at Columbus, Nebr., in his report dated Feb- 21, 1883, says:

lisability is permanent in this degree, and probably will grow worse as claimant older. He is growing feebler every year. He does require the regular aid and ance of another person, as contemplated in your instructions to surgeons (as stand the instructions). It is a fact, however, that after he is washed, dressed, his meals he is permitted to go around the streets in fair weather without ual presence of another person, though a system of espionage is kept up con- over him. I am sure, were you to see the man, you would not think the rating h; further, I believe, though I am not sure of it, that incipient phthisis is ing. His nutrition is very bad, and, from his statements, I think he must be at times.

Department can grant no increase between $30, the rate for inability to perform any manual labor, and $50, the rate where nstant aid and attention is required. His condition is much worse hat of a person simply unable to perform manual labor. He says enty years he has not been able to sleep all night in a bed. His ngs are terrible. Believing that, while the relief asked for by ill cannot be properly granted, he ought to have a higher rating sion than he is now receiving, your committee recommend the re of the accompanying substitute for bill H. R. 4120.

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 406.

# LIZZIE KENAMORE.

RUARY 11, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

r. MORRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4112.]

*he Committee on Invalid Pensions, to whom was referred the bill (H. R. 4112) granting a pension to Lizzie Kenamore, submit the following report:*

We find that claimant is the widow of Capt. Grant A. Kenamore, of Company D, Forty-eighth Missouri Volunteers. Captain Kenamore served in Company G, Ninth Missouri State Militia, from April 1, 1863, to September 21, 1864, and in Company D, Forty-eighth Missouri, from September 22, 1864, to March 23, 1865.

On the 29th of August, 1882, he filed application for pension, alleging that while in the line of duty making the grand rounds as officer of the day at or near Rolla, Mo., about December 1, 1864, his horse fell and his left arm was broken at the elbow joint, his left shoulder badly injured, and his upper lip split open. The lip has never healed, and he can only take food now in a liquid form. In January, 1885, the claim was allowed, and he was granted a pension for the injury to the elbow.

The injury to the lip developed into a cancer, from which he suffered all that it would seem possible for a human being to suffer, and from which he died July 7, 1885. The Department rejected the claim for pension for cancer on the ground that the cancer was not the result of said injury. As the cancer was the admitted cause of his death, this decision in the original claim renders it impossible for the widow to establish her case. There is a large amount of evidence showing that the soldier was free from the disease at enlistment. Dr. Hudspeth testifies that he is positive that there was no sore on Kenamore's lip when he enlisted. The only evidence to show prior disability is that of Dr. Hyer, who says, "before the war he showed me a crack in his lip, and I advised him to keep it covered with court plaster."

One other witness thinks he saw soldier with a piece of court plaster on his lip. Captain Kenamore asserted most positively that there was no disease of the lip when he enlisted. Hon. R. P. Bland says, March 24, 1885:

I know his reputation for truth and integrity in all regards. I know that it is good as the best. He would not make a false statement for any consideration. I am fully satisfied that the evidence of Dr. John Hyer in that regard is a mistake. I know Dr. Hyer, and I do not believe he would knowingly make any false statement; but when he says he thinks the sore on the lip was there before the war, and was treated by him at that time, he no doubt has mistaken dates, as I am credibly informed that after

the war Dr. Hyer did examine Kenamore's lip. Dr. Hyer is old and quite
he is mistaken in this case. Captain Kenamore is at death's door. His
and wish is to leave a support for a wife soon to be a widow, one that has l
a tender friend and support in all his great affliction. His afflictions hav
are terrible. This wound on his lip turned to an eating cancer, that has l
voured his face. His tongue and throat are nearly gone. He can surviv
days, or months at most. In the very jaws of death, he reiterates the tru
lip and face were sound befor he got this wound in the service. Uninte
justice has been done him.

After a careful review of the evidence submitted, your comm
convinced that the evidence fails to show that the disease e
enlistment, and they therefore recommend the passage of the

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 407.

# MARY M. GALLEYAN.

FEBRUARY 11, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 3941.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3941) granting a pension to Mary M. Galleyan, submit the following report:*

Your committee find that claimant is the widow of Joseph S. Galleyan, late a private of Company G, Fifty-ninth Indiana Volunteers. This soldier died November 2, 1873, of chronic diarrhea. The evidence shows that he was drafted January, 1865, and discharged July, 1865. The widow applied for pension in June, 1877, which was rejected, though no reason is given. The hospital record shows that the soldier was admitted July 3, 1865, with diarrhea. Samuel Rebstock testifies:

> The soldier was first taken with diarrhea about the 28th of April, which stuck to and disabled him until the time of his discharge, I lived within half a mile of said Galleyan after his discharge until in February, 1866, during which time I was intimately acquainted with him and he was never free from the diarrhea.

Dr. Samuel W. Gould says he treated him from August, 1868, till July, 1870, for the same disease.

Dr. John M. Rochhold testifies that he had been acquainted with him for about one year before his death; that he attended him at the time of his death, and that the immediate cause of his death was chronic diarrhea; that it must have existed for a long time prior to his acquaintance with him.

The widow declares her inability to furnish further evidence. The incurrence of the disease in the service seems to be fully established; that it existed February, 1866, and August, 1868, and continued until his death is also clearly shown; that he died from the effects of that disease is proven. The reasonable conclusion is that his death was caused by the disability incurred in service, and your committee therefore recommend the passage of the bill.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 408.

# WILLIAM G. SCHOONOVER.

FEBRUARY 11, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 3390.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3390) to place the name of William G. Schoonover on the pension-roll, submit the following report:*

We find that claimant is the father of James C. Schoonover, of Company E, One hundredth and fourth Illinois Volunteers; that the soldier died from the effects of wounds received in battle, and that his mother was allowed a pension until her death in September, 1878. The father's claim was rejected on the ground that he was able to support himself. The evidence shows that after the death of the mother, and about 1881, claimant sold his little farm, receiving therefor $300; that after erecting a stone to her grave and paying doctors' bills he had $150; that he was well, active, and strong for one of his age (then seventy-one years), and could earn $1 per day at light work. The special examiner in his report made December 4, 1882, and from which the above statement of evidence is obtained, sums up his findings as follows:

> It is my opinion, from observation and the testimony obtained in the case, that the following facts exist: (1) That claimant is the father of James C. Schoonover, who was a private in Company E, One hundred and fourth Illinois Volunteers; that said James C. Schoonover was wounded while in the service and line of duty, and died from the effects of said wound. (2) That claimant was partially dependent on said soldier for support at the date of said soldier's enlistment. (3) That claimant is and has been since the death of his wife (the mother of soldier, who died September, 1878, and who drew pension as dependent mother) able to and has supported himself by manual labor.

The old man is now seventy-six years of age. His only son fills a soldier's grave. He fell in battle with his face toward the enemy. Will the Congress of the United States refuse to pension this father because he is able to support himself by manual labor at the ripe old age of seventy-six years?

Your committee recommend the passage of the bill.

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ɔNGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
ession. } { No. 409.

# N. M. MILLER.

r 11, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

ERILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 737.]

*mittee on Invalid Pensions, to whom was referred the bill (H. R. ranting a pension to N. M. Miller, submit the following report:*

nd that claimant enlisted August 16, 1862, in the Ninety-first nt Indiana Volunteers, and was discharged May 26, 1865. June, filed application for a pension, alleging heart disease. June 1, e claim was rejected on the ground that there was "no record of isease, nor evidence of medical treatment in service. The evi- insufficient to show the same due to the service." The evidence ase seems to prove conclusively—it having been thoroughly in- ted by special examiners of the Pension Department—that claim- a strong, robust man at time of enlistment. That about Au- 1864, he was admitted to the hospital, at Marietta, Ga., with is; that he also had scurvy and chronic diarrhea; that he contin- suffer from these diseases, and especially from epistaxis, very y until his discharge; that he complained also of heart disease pring of 1865. He was a practicing physician before he entered vice, and at one time in the service had charge of the regimental l. It seems to be well established that he had heart disease and has continued ever since. The evidence shows that he was a ldier. The difficulty in the Pension Department seems to have decide as to the cause of the heart disease. The evidence shows imant was addicted to the use of alcoholic drinks, and the med- ree, it seems, was unable to decide whether the heart disease was lt of that habit or of the scurvy and epistaxis and the resultant ishment of the blood. In submitting the case to the medical the examiner says:

l to drink. He is now of excellent reputation and high professional stand- has practiced since 1858, and hence can furnish no medical evidence as to t. For that reason the disease of heart cannot be proven as an independent

mber of his acquaintances, including Hon. B. W. Perkins, a of this Congress, testify that he is a man of high character, ionable veracity, and of good standing in his profession. It is sible for him to prove that the heart disease was not the result se of alcohol, but it is more reasonable to suppose that three exposure and hardship, a want of proper diet, and the depriva- cident to a soldier's life in the field, resulting in scurvy and diarrhea, caused the disability from which he now suffers. committee recommend the passage of the bill.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 410.

# MARTIN KIRK.

FEBRUARY 11, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 1396.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. 1396) to pension Martin Kirk, submit the following report:*

We find that claimant enlisted August 19, 1863, and was discharged July 17, 1865. July, 1877, he applied for a pension, alleging "that on the 30th of September he contracted a fever; that he was salivated from mercurial treatment while under treatment for fever, which has resulted in cough, &c." This was rejected on the ground of no record and inability to furnish evidence of commanding officer or surgeon. The records of the company show for September and October that he was absent sick in Polk County, but do not state the disease. The claimant says:

> The origin of my sickness, for which I make application for a pension, was from a spell of sickness contracted in the fall of 1863, while on a scout in the counties of Laclede and Webster, Missouri. I was brought from off the scout to Marshfield, Mo., where I lay sick with a fever for three or four weeks. After I was able to get up, I found myself salivated from mercurial treatment. Being in this condition, I was detailed immediately after this sickness on the Shelby raid; was on the raid three weeks, exposed day and night It ruined my health, and brought on a permanent disease, which has produced a continuous cough and a spitting of corrupt matter and blood.

Dr. S. H. Headin, whose reputation is vouched for "as the very best," testifies that he treated the soldier in October, 1863, for congestion of the liver, caused from exposure in camp life.

R. M. Johnson, one of his comrades, swears that claimant was very sick in September and October at Marshfield, Mo., and that he was never able afterwards to do active duty and frequently not able to perform any duty at all. James Bouldin, another comrade, testifies to the same facts.

Thomas B. Evans, a citizen of Polk County, a member of same company, says claimant was very sick with fever at Marshfield September and October, 1863, and that he was never able for active duty afterwards.

John A. Callahan, a citizen of Marshfield, testifies that he has known claimant since 1857; that he knows of his being sick at Marshfield; that he has not been well since; staid with him two days in 1865 and he was then spitting blood. Has known him ever since, and that he has been troubled with the cough and spitting of blood and corruption ever since.

Two other witnesses testify to having known him since discharge, and describe his condition the same as the last witness has. His family physician and eight others testify to his good health before enlistment. The examining surgeon at Springfield, Mo., November 28, 1881, reports him totally and permanently disabled.

The examining board at same place November 29, 1882, report:

Applicant is feeble, emaciated, shrunken muscles and flabby; has chronic pharyngitis and some cough. Has rotten teeth and ulcerated, spongy, rotten gums; skin harsh and dry. Is debilitated, and walks with canes; disability, total.

The evidence seems clear and straightforward. Five witnesses swear positively to the origin of the disease. These witnesses testify from personal knowledge to its continuance; the examining surgeons report as to his present condition. Nothing is shown to throw a cloud on any of the evidence offered, but the absence of a hospital record and of the evidence of the surgeon of the regiment was fatal to the case. Your committee find few cases referred to them with evidence so clear and conclusive. That the disease originated in the service, has continued ever since, and now exists, seem to be proven.

Your committee recommend the passage of the bill.

ıGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
ısion. } { No. 411.

# WILLIAM TAYLOR.

11, 1886.—Committed to the Committee of the Whole House and ordered to be printed

RILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4580.]

*nittee on Invalid Pensions, to whom was referred the bill (H. R. › grant a pension to William Taylor, submit the following report:*

ıl that claimant was a member of Company B, First Nebraska enlisted August 13, 1864, and discharged February 13, 1865. ınization was under the command of an officer of the United ›lunteers, and co-operated with the United States forces, and by the General Government. He filed his application, alleging rand Island, Nebr., about November 30, 1864, he was injured rse falling on him, dislocating his shoulder. The case seems to n fully proven in the Pension Office, but was finally rejected ound that it was barred by paragraph 3, section 4693 Revised

The captain of the company and the regimental surgeon tes- › the facts in the case. A physician who treated him at dis- ınd for years after, testifies that his injury was permanent and ·. Neighbors testify to its continuance, and the examining Omaha report October, 1882, that he is half totally disabled. point in the case seems to be that he was a militiaman. The ·ule, in Congress, has been to grant pensions to militiamen ınnded or injured in line of duty when their organization was ɜ command of a United States Army officer. This is shown to ct in this case.

ommittee recommend the passage of the bill with an amend- ıking out the word "volunteers" in fifth line, and inserting "militia."

O

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
ession. } { No. 412.

# J. W. BENNETT.

Y 11, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

RRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 746.]

*mittee on Invalid Pensions, to whom was referred the bill (H. R. ranting a pension to J. W. Bennett, submit the following report:*

nd that J. W. Bennett was appointed an acting ensign in the 'ebruary 20, 1865, and served on the Savannah from that date to 13, 1865; on the Currituck from March 14, 1865, to July 27, 1865, the Nansemond from July 28 to August 8, 1865, when he was leave of absence. He was honorably discharged October 12,

ant in his affidavit says:

e is wholly unable to furnish the testimony or affidavit of a commissioned two of the men belonging to the United States steamer Currituck at the met with the accident set forth in the application for invalid pension, for the at he does not now know the place of residence of any officer or man with e had the honor to serve, nor has he at any time since his discharge and the n and dispersion of the command ever known the place of residence or outs of either or any of the officers or men, he, immediately after his dis- aving set out for the Western States, and not being bound either by relation- ndship, or previous acquaintance with any of the members of said command, as composed of men from most of the seafaring nations of the earth; that s no surgeon on board at the time of his injury, which was caused by falling gunboat across the thwart seat of the boat waiting to convey him to a ves- searched, in Chesapeake Bay, in April, 1885, the fall resulting in a rupture of ; that the doctor's steward furnished him with a truss.

he shows by the evidence of Acting Ensign Boivie that the existed a few days after discharge. He testifies:

s acquainted with claimant at time of discharge, about the middle of Octo- ; that he was quite intimate with him, being a brother officer and country- ys he is sure as to time, as he was about to go, and did go, to Sweden a after; that they boarded at same house together, and claimant wore a truss, lained to affiant that he was ruptured, and that it was caused by a fall into that was waiting to take him to a vessel in Chesapeake Bay.

n Williams testifies that he became acquainted and was inti- ith claimant early in 1866, and he knows that he was then rup-

mber of witnesses testify to claimant's high character for truth racity from a long and intimate acquaintance with him. There ing in the evidence examined to raise a doubt as to the merits case. The examining board at Mount Vernon, Mo., report, De- 22, 1883, that there is a direct hernia of left side.

committee recommend the passage of the bill.

GRESS, } HOUSE OF REPRESENTATIVES. { REPORT
sion. } { No. 413.

# THOMAS S. OWENS.

11, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

RILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4579.]

*mittee on Invalid Pensions, to whom was referred the bill (H. R. ranting an increase of pension to Thomas S. Owens, submit the ng report:*

d that claimant enlisted in Company A, First Nebraska Cav- ember 17, 1862, and was discharged July 1, 1866. He applied sion January 23, 1880, alleging chronic diarrhea, and resulting fits, heart palpitation, and indigestion. This was allowed for liarrhea, but the other diseases stated were not admitted as re- chronic diarrhea. There seems to have been a difference of in the board of medical referees on this question. Dr. T. B. ys:

that the irritation of the mucous membrane of the bowels from chronic diar- d be a good and sufficient cause to produce the epileptic convulsions with ing functional disease of heart and indigestion.

aimant is unable to work and is penniless, being helped by the o support his wife and five children. He served nearly four d when good medical authority holds that the diseases for claims pensions can properly be said to be the result of the dmitted to have been contracted in the service, it would seem soldier ought to have the benefit of the doubt.

committee recommend the passage of the bill with an amend- iking out all after the word "directed," in the fourth line, and the words, "to increase the pension of Thomas S. Owens, late in Company A, First Nebraska Veteran Volunteers, to $24 th."

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 414.

# M. S. TOWN.

FEBRUARY 11, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4370.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4370) granting a pension to Myron S. Town, submit the following report:*

We find that claimant enlisted August 16, 1862, as a private in Company H, One hundred and forty-third Pennsylvania Volunteers, was promoted to lieutenant July 12, 1864, and was mustered out November 1, 1865. December, 1876, he filled application for pension, alleging piles and varicose veins, which was rejected October 28, 1885, on the ground of no record, and inability to prove incurrence in the service. His long service of over three years would seem to render any proof of prior soundness unnecessary, but claimant has shown by nine witnesses, all of whom are reported as of good reputation, that he was sound and well at time of enlistment and for nearly two years thereafter. Claimant testifies that he contracted varicose veins in the campaign of the Wilderness, and that they were much increased by subsequent service; that he cannot furnish the evidence of a commissioned officer, as his company lost their officers, and the first sergeant was taken prisoner; that he cannot furnish the testimony of the surgeon, as he never went to the hospital. He does, however, prove by medical evidence that he was treated immediately after discharge, and until 1883, by four different physicians whose reputations are vouched for as good; that the piles resulted in fistula for which surgical operations were performed in 1877, and again in 1879. The board of medical examiners at Princeton, Mo., July 22, 1885, report him one-half disabled. There seems but one thing lacking in this case, and that is evidence of actual incurrence in service. It is shown conclusively that he was free from the disease at enlistment and for nearly two years thereafter; that he was suffering from the disabilities at time of discharge, and that they have continued ever since. Diseases of this character are of slow development. At first the inconvenience and suffering from them is slight, and does not disable the soldier from the discharge of his duties. They might naturally have existed for weeks and months without requiring medical attendance. After a careful examination of the case your committee conclude that it is a proper one for Congress to afford the asked-for relief, and they therefore recommend the passage of the bill.

C

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 415.

# MRS. B. ALFERS.

FEBRUARY 11, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 3945.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3945) for the relief of Mrs. B. Alfers, submit the following report:*

We find that claimant is the mother of James R. Brentano, minor child of Antoine Brentano, late a sergeant of Company B, Thirteenth Kansas Volunteers. Antoine Brentano enlisted in Company B, Thirteenth Kansas Volunteers, September 1, 1862, and was discharged June 26, 1865. He died January 22, 1869. His widow, now Mrs. B. Alfers, remarried February 4, 1871, without having made any application for a pension. In 1881 an application was made for a pension for James R. Brentano, the only child (and a minor) of James R. Brentano. The evidence being satisfactory that the death of the soldier was the result of disabilities contracted in the service the pension was allowed and a certificate was issued for a pension to cease December 22, 1882, the date at which the minor arrived at the age of sixteen years. A few months before the certificate was issued James R. Brentano met with an accident which resulted in his death. This bill asks that the pension allowed to the minor be paid to his mother, who is his sole heir. This would seem to be but simple justice. The papers in the case show that the evidence was filed some time before the death of the child, and had prompt action been taken in the Department the money would have been paid before his death, and in that event the mother would have received the benefit of it. A pension to a minor is for his support and education. This mother had kindly provided for all his wants and had been to the expense of supporting and educating him till his sudden death deprived her of her child. Technically she is not entitled to the pension, but every principle of justice and equity demands that it should be paid to her.

Your committee recommend the passage of the bill.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 416.

# ALBERT L. ALLEN.

FEBRUARY 11, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 3530.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3530) granting a pension to Albert L. Allen, submit the following report:*

The evidence on file in this case shows the following facts: That during the war claimant was a Government agent, under the direction of Lyne S. Metcalfe, then in charge of Government stores at the Saint Louis depot; that he was ordered to and took charge of the quartermaster's stores, then embarked on the Government transport steamer Venice, and conducted the same from Saint Louis to Johnsonville, on the Tennessee River, in Tennessee; that while returning from said duty, having taken on board at Johnsonville a detachment of troops commanded by one Lieutenant Gibson, of the New Jersey troops, as they were approaching Paris, Tenn., on October 30, 1864, the Venice and consort were fired into by Confederate troops, under General Forrest; that Lieutenant Gibson ordered every man on board to fight till all should be killed, and enforced his order with drawn revolver; that all took arms and fought from 10 a.m. to 4 p.m., nine men being killed and many wounded; that claimant fought with a musket and was shot through the right shoulder and right foot, and was permanently disabled. The vessels were captured and most of the wounded carried off as prisoners, but the surgeon said that claimant would die, and could not be removed, whereupon General Forrest paroled him. Claimant was neglected for five days, and lay helpless with his wounds undressed until they became offensive, and he has been disabled ever since.

The case was rejected by the Pension Department on the ground that claimant was not an enlisted man. Congress has repeatedly granted relief in similar cases by special act, and your committee therefore recommend the passage of the bill.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 417

# MARTHA A. SILKEY.

FEBRUARY 11, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4101.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4101) granting a pension to Martha A. Silkey, submit the following report:*

We find that Martha A. Silkey is the widow of William Silkey, private of Company B, Sixty-fifth Regiment, Missouri Enrolled Militia. Briefly stated the evidence is as follows: This soldier was captured, with his company, October 17, 1864, by a portion of the command under the rebel General Sterling Price, and while a prisoner was shot, as it was claimed, in retaliation for the killing of two rebel soldiers by a squad of the same command to which Silkey belonged. His widow filed a claim for pension July 6, 1869. As the soldier belonged to one of the classes of organizations specified in the third paragraph of section 4693, Revised Statutes, the claim was not valid unless prosecuted to a successful issue prior to July 4, 1874. This was not entirely done, though the material portion of the evidence was filed before 1871.

It would seem that there can be no question as to the duty of Congress in this case, and your committee therefore recommend the passage of the bill, with the amendment striking out that portion after the word "militia" in seventh line and before the word "subject" in the twentieth line.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 418.

# JOSEPH A. PORTER.

FEBRUARY 11, 1886.—Laid on the table and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 800.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 800) granting a pension to Joseph A. Porter, submit the following report:*

A similar bill for the relief of this claimant was before this committee in the Forty-eighth Congress, and was reported upon adversely upon the ground that the evidence in the case, which was especially full and complete, showed that the disability was incurred subsequent to his discharge from the service. No new evidence has been offered, and no new action had except its rejection by the Secretary of the Interior on appeal.

Your committee see no reason to reverse their former action, and therefore report adversely, and ask that the bill lie on the table.

O

I CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
t Session. } { No. 419.

# ADAM ZARN.

FEBRUARY 11, 1886.—Laid on the table and ordered to be printed.

MORRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 3942.]

*Committee on Invalid Pensions, to whom was referred the bill (H. R. 942) granting a pension to Adam Zarn, submit the following report:*

We find that claimant enlisted August 27, 1862, in Company B, One dred and seventh Pennsylvania Regiment, to serve three years, and wounded at the battle of Antietam, September 17, 1862. He was t to hospital, which he left without leave and enlisted October 16, 2, in Company B, One hundred and fifty-eighth Regiment Pennsylnia Volunteers, to serve nine months, from which regiment he was stered out August 12, 1863. The Pension Department has notified imant that no further action will be taken in this claim until claimant's charge from Company B, One hundred and seventh Pennsylvania lunteers, is placed on file. Your committee have arrived at the same clusion, and therefore report adversely and ask that the bill lie on table.

O

H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 420.

# DAVID STONECYPHER.

FEBRUARY 11, 1886.—Laid on the table and ordered to be printed.

MORRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 1430.]

*Committee on Invalid Pensions, to whom was referred the bill (H. R. 430) for the relief of David Stonecypher, submit the following report:*

We find that claimant enlisted September 18, 1861, in Company H, irty-seventh Indiana Volunteers, and was discharged June 4, 1862. arch, 1873, he filed a declaration for a pension, alleging heart disease, hich was rejected on the grounds of no record and inability to furnish idence. The muster-role shows that he was absent sick during No-mber and December, and so borne till June, when he was discharged. was discharged June 4, 1862, on a surgeon's certificate of disability, ich states "his having chronic bronchitis, with general disability, and done no duty for six months, is not entitled to a pension." The ex-ning board at Lincoln, Nebr., report, in 1883, the disability is not nifest.

our committee report adversely, and ask that the bill lie on the e.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 421.

# STEPHEN C. MONROE.

FEBRUARY 11, 1886.—Laid on the table and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 1421.]

*The Committee on Invalid Pensions, to whom was submitted the bill (H. R. 1421) to rerate the pension of Stephen C. Monroe, submit the following report:*

This bill asks that the Secretary of the Interior be authorized to rerate the pension of claimant. The Secretary of the Interior has power to correct any errors that may have been made in any rating, and your committee, failing to see that this bill would give him any authority in the case that he does not now possess, report adversely, and ask that the bill lie on the table.

H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 422.

# LEWIS W. AYERS.

FEBRUARY 11, 1886.—Laid on the table and ordered to be printed.

. MORRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4117.]

*Committee on Invalid Pensions, to whom was referred the bill (H. R. 117) granting a pension to Lewis W. Ayers, submit the following report:*

This case has been fully and thoroughly examined by special examers of the Pension Department, and the facts proven show that it is oid of merit.

Your committee therefore report adversely, and ask that the bill lie the table.

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 423.

# ANDERSON COLLETT.

FEBRUARY 11, 1886.—Laid on the table and ordered to be printed.

ORRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4113.]

*ommittee on Invalid Pensions, to whom was referred the bill (H. R. 3) granting a pension to Anderson Collett, submit the following re- t:*

find that claimant filed an application April 25, 1876, for pension, ng gunshot wound of right hip, and mumps. In 1876, 1878, 1881, 883 he was examined by the regular examining surgeons of the on Department, and in every case they reported no ratable dis- y. The case was accordingly rejected. To place claimant on the on rolls would not benefit him unless there is a disability which e rated.

ur committee therefore report adversely, and ask that the bill lie table.

O

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 424.

# LOUIS LOE.

FEBRUARY 11, 1886.—Laid on the table and ordered to be printed.

RRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4102.]

*mittee on Invalid Pensions, to whom was referred the bill (H. R. ) to rerate the pension of Louis Loe, submit the following report:*

xamination of the papers on file in the Pension Department in se fails to show any reason why this pension should be rerated. increased disabilities and more liberal laws the pension has been ed from time to time until it is now $24 per month, but it appears he papers on file that he has been rated during the whole time rdance with the existing laws and the reports of the examining ns.

committee therefore report adversely, and ask that the bill lie table.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 425.

# AMBROSE BURTZ.

FEBRUARY 11, 1886.—Laid on the table and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 3781.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3781) granting a pension to Ambrose Burtz, submit the following report:*

Claimant in this case has submitted no evidence to prove the incurrence of the disability (frozen feet) for which pension is claimed, and the examining board of pensions before whom he was ordered report no disability from that cause. He has since submitted to the committee a claim for rheumatism and gunshot wound, but no evidence of incurrence accompanies the claim. His last application should be filed in the Pension Department, and proof to establish the claim should be submitted there.

Your committee therefore report adversely, and ask that the bill lie on the table.

C

H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 426.

# HENRY C. WILLIAMS.

FEBRUARY 11, 1886.—Laid on the table and ordered to be printed.

r. MORRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 3099.]

*he Committee on Invalid Pensions, to whom was referred the bill (H. R. 3099), granting a pension to Henry C. Williams, submit the following report:*

No claim has been filed in the Pension Department in this case. s claimant was quartermaster sergeant of the One hundred and thirty-venth Illinois Volunteers, there seems to be no reason why a claim operly proven would not be allowed in the Department. No evidence hatever has been filed with your committee, and they therefore report lversely, and ask that the bill lie on the table.

CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 427.

# V. L. WIGGINS.

FEBRUARY 11, 1886.—Laid on the table and ordered to be printed.

ORRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 1395.]

*ommittee on Invalid Pensions, to whom was referred the bill (H. R. 1395) to pension V. L. Wiggins, submit the following report:*

ır committee are informed by General J. C. Black, Commissioner of ons, that the records of his office fail to show that any claim for pen- as ever been filed in behalf of V. L. Wiggins. As he was a pri- n Company F, Fourth Illinois Cavalry, there is no reason why he l not be granted a pension if application is made to the Depart- and satisfactory evidence submitted. The rule of this committee en to consider no claims for pensions in cases that could properly efore the Pension Department under existing laws until they ceived consideration there, and had been rejected.

r committee therefore report adversely, and ask that the bill lie table.

H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 428.

# MAGDALENA KRUSE.

FEBRUARY 11, 1886.—Laid on the table and ordered to be printed.

MORRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4568.]

*Committee on Invalid Pensions, to whom was referred the bill (H. R. 68) granting a pension to Magdalena Kruse, submit the following rt:*

he hospital record in the case of Joseph Slater, a private in Company Ninety-second United States Colored Troops, who is reported to be son of claimant, shows that he died from a disease in no way inci- t to the service.

our committee therefore report adversely, and ask that the bill lie he table.

CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 429.

# MARGARET CALLANAN.

RY 11, 1896.—Committed to the Committee of the Whole House and ordered to be printed.

DCOCK, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4134.]

*mmittee on Invalid Pensions, to whom was referred the bill (H. R. for the relief of Margaret Callanan, submit the following report:*

claimant asks pension on account of the death of her husband, as a private in Company F, Second Regiment, New Jersey Vol-s.

Pension Office rejected the claim on the ground that the dis-f which he died did not originate in the service and line of duty. soldier obtained a furlough February 10, 1864, for thirty-five days, hile at home, March 18, 1864, died of typhoid pneumonia.

claimant can furnish no evidence as to origin of the disease, but that the soldier on his arrival home had a bad cough and was unwell.

Lyman M. Crane testifies that he was first called to visit soldier 12, 1864, and found him very ill with inflammation of the lungs. d been complaining from the time he got his furlough, and had a ough, till he was taken down to his bed the day the doctor was to see him. In answer to question put in affidavit, "Is it pos-hat he could have contracted such disease subsequent to February 54," he says:

ik not. His disease assumed a typhoid form very different from any inflamma-ease prevalent in this latitude at the time. In my opinion he contracted the of which he died from exposure and fatigue in the United States Army pre-o getting his furlough. The United States hospital physician at Newark, equested me to make affidavit to his condition and send it on, which I did ngly.

doctor's conclusion seems positive; and your committee are of the n that this is a deserving claim, and recommend the passage of l.

CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 430.

# JOHN D. JAMES.

RY 11, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

DCOCK, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 3753.]

*mmittee on Invalid Pensions, to whom was referred the bill (H. R. 3) granting a pension to John D. James, submit the following re-*

n D. James, late private Company H, Third Regiment, Pennsyl- Artillery, filed his application for pension March 29, 1882, alleging lity from spinal wound received at Baltimore Pike, Maryland, 30, 1863, caused by his horse falling and by such fall the hammer revolver penetrated his spine and caused injury. The application ejected May 23, 1885, on the ground that there was no record of d injury. The claimant proved that prior to the time of enlist- he was in good sound health and was free from injury to spine.

reports from Surgeon-General show that he entered Sutterlie al Hospital, West Philadelphia, Pa., July 5, 1863, with rheu- n, the case-book showing debility, headache, and considerable in side and limbs, and after being transferred from one hos- o another was returned to duty December 7, 1863, being discharged Convalescent Camp, Virginia, January 16, 1864, upon certificate ability. The reports from Adjutant General show that claimant d in said company October 31, 1862, and the rolls for July and st report him absent, sick in United States general hospital at er, Pa., to December 31, 1863, January and February, 1864, and rged for disability at Washington, D. C., January 16, 1864, the of illness not stated, and the regimental hospital records not on

F. J. Bancroft, the surgeon of the regiment, testifies that claimant sound man prior to his enlistment; that he knew him before his nent into the service, and examined him at the time of his enlist- and found no weakness of the spine existed at that time. He r says that he believes he treated him for injury to spine during f service. Claimant expressed his inability to furnish the testi- of the officers or comrades of his company, because he has never ble to ascertain their whereabouts; that the captain, he has been ed, is dead, and his comrades so scattered about that it is impos- o find them; that one is in Germany, but though having written peatedly has never heard from him. It is shown that since his rge claimant has been a constant sufferer from spinal derange-

ment and unable to perform anything but light labor, and laid u illness resulting from derangement of the spine a considerable p the time, and in the enjoyment of very poor health, and incapa for even light labor fully one-half the time. The medical evidenc shows frequent treatment since discharge for spinal derangemen the examining surgeon, in reporting claimant two-thirds incapa for manual labor, says:

I find there has been an injury at about the eleventh dorsal vertebra, and quit for about 6 inches, and remember him being in county hospital for several m 1878, with trouble in his back. He says he is not able to lift a pail of water causing pain in the back.

Your committee believe this to be a deserving case, and claimant has been unable to prove it, from the evidence present hospital records are of the opinion that the injury to spine w tracted, as alleged, in the service and line of duty, and therefo ommend the passage of the bill.

C

CONGRESS, } HOUSE OF REPRESENTATIVES. { REPO
st Session. { { No. 43

# WILLIAM DERMODY.

RUARY 11, 1886.—Committed to the Committee of the Whole House and order to be printed.

PIDCOCK, from the Committee on Invalid Pensions, submitted tl following

## REPORT:

[To accompany bill H. R. 1505.]

*e Committee on Invalid Pensions to whom was referred the bill (H. 1 1505) granting a pension to William Dermody, submit the following r port:*

The claimant was a private in Company H, Seventh Regiment Ne rsey Volunteers, and in his application for pension alleged disabilit m gunshot wound of the right thigh, received at Trenton Barrack enton, N. J., July 21, 1865, from the hands of one of the Invali rps, who was whipping a drummer boy while claimant attempted t p him.

The officers of the regiment testify that the regiment was mustere t of service at Washington, D. C., and had arrived at Trenton, N , for final discharge, and also that claimant was wounded in the rigl igh by one of the Invalid Corps on the date mentioned, as allege illiam Ramage, captain of Company D of same regiment, testifies a ing an eye witness to wounding, and to picking claimant up and sen g him to his home in a wagon.

Sylvester W. Nafew, the captain of claimant's company, testifies th bout July 22, 1865, the regiment arrived in Trenton, N. J., for bein id off and discharged, and on the afternoon of their arrival he ga laimant permission to spend the night with his family in said city, t eport at 9 a. m. the next day; that next morning at about said ho laimant returned to the United States barracks, near said city, whe hey were quartered, and just as he was about entering camp he saw drunken soldier of the Invalid Corps beating and kicking a little drun mer boy named William Murphy, of the the Sixth New Jersey, in tl public road, and thereby greatly endangering the limbs and life of sa boy; that said claimant rushed to the rescue of said boy, when sa drunken soldier drew a revolver and shot claimant in the right thig wounding him severely; that claimant was put in a wagon and sent t his own home and there treated for said disability, affiant thinks, by th surgeon or assistant surgeon of the regiment; that claimant was a goc soldier and not addicted to intemperance or other bad habits; and th when disabled as aforesaid he was still in service and in the line of h duty.

Dr. Richard R. Rogers testifies that about July 21, 1865, he w

called to attend the claimant for a gunshot wound of right
which attended him about one week.

The application for pension was rejected on the ground
wounds were not received in the line of duty.

The Pension Office, your committee think, were in error in t
cision in this case, because the soldier had permission to lea
and was on his return and almost if not quite in camp, and t
should be considered in the line of his duty, and therefore rec
that the bill do pass.

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 432

# AMANDA HONSELL.

RUARY 11, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

. PIDCOCK, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 3546.]

*e Committee on Invalid Pensions, to whom was referred the bill (H. R 3546) granting a pension to Amanda Honsell, submit the following report:*

It appears from the testimony in this case that John M. Honsell, the sband of claimant, enlisted August 13, 1861, in Company C, Fourth egiment, New Jersey Volunteers, and was discharged October 29 62, upon a surgeon's certificate of disability because of "chronic diarrhea, which resists all treatment; sick six months." He re-enlisted ne 20, 1864, in Company E, Eighth Regiment Maryland Volunteers d was transferred to Company K, First Regiment Maryland Volunteers, and was mustered out August 1, 1865, at Washington, D. C. on individual muster-out roll, as from general hospital, Alexandria a. The records of Lickle Hospital, Virginia, show that he was scharged from the service August 4, 1865, and was paid in full on me date at Washington, D. C., since which date his whereabouts ve been unknown.

The claimant, believing her husband to be dead, filed a claim for pension as widow April 9, 1881, and the claim was rejected on the ground that there is no record at the War Department of the date and cause f death of the soldier, and the claimant has declared her inability to ove the same."

In transmitting the case to the honorable Secretary of the Interior on n appeal of the case by claimant's attorney, the Commissioner of Pensions uses the following language:

> Whether his death was actually caused by the disease contracted in the service, or by events not due to his service, is a question that cannot be determined by the facts before us.
>
> The Commissioner has no authority under the law to presume a result; he must decide questions on the facts presented, and in this instance it is clear that the soldier's death cannot be definitely charged to the service. The case seems to be worthy of consideration by Congress with a view to special legislation to give title.

The Secretary of the Interior sustained the action of the Commissioner of Pensions in rejecting the claim, and in his opinion uses the following language:

> The presumption that the soldier is dead is very great, and the presumption that he died from chronic diarrhea and shortly after discharge is also great. The Depart

ment concurs in the opinion expressed in your report, quoted above, that you have no authority under the law to grant a pension in this case; and further the Department concurs with you in the opinion that the case seems worthy of special legislation.

The testimony in this case shows that the soldier prior to his first enlistment was in good sound health and free from disease of chronic diarrhea, and that said disease was contracted in the service, and at the time of his discharge had assumed a malignant form, and bears out the opinion of the honorable Secretary of the Interior that he died shortly after discharge from said disease.

Your committee deem this a meritorious case, and recommend the passage of the bill, with the amendment, striking out after word "Volunteers," line 8, the words, "to date from September first, eighteen hundred and sixty-five."

›NGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
ession. } { No. 433.

# JOHN W. ROSE.

r 11, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

ɔOCK, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 1504.]

*mittee on Invalid Pensions, to whom was referred the bill (H. R. ɣranting a pension to John W. Rose, submit the following re-*

committee find a similar bill was reported adversely by the ee on Invalid Pensions of the Forty-eighth Congress, and no lence having been filed since, a careful examination of the ı the case shows no reason to reverse their decision, and there- ›rt adversely and ask that the bill lie on the table.

ɔ

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 434.

# JOSEPH B. WALTERS.

FEBRUARY 11, 1886.—Laid on the table and ordered to be printed.

Mr. PIDCOCK, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 2836.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2836) granting a pension to Joseph B. Walters, submit the following report:*

Joseph B. Walters, late private, Company H, Ninth Regiment Iowa Volunteers, filed his application for pension February 23, 1875, alleging disability from total deafness in right ear and partial deafness in left ear from exposure June 8, 1862, at Kertsville, Mo. The application was rejected on the ground that the disability existed prior to enlistment.

Claimant's soundness is testified to by neighbors who employed and worked with him prior to his enlistment, who state that he was always prior to and at that time free from deafness and had good hearing, and also by Dr. W. F. Coleman, who corroborates their statements. Officers and comrades of the same regiment also certify to claimant's soundness and good hearing at time of enlistment, and testify that he was subjected to hardships and exposure and contracted a heavy cold at the time and place alleged in the declaration for pension, which resulted in his illness and final total deafness of right ear and partial deafness of the left, causing his discharge for disability, and the surgeon, in his certificate of disability, states claimant as unable to perform the duties of a soldier because of perforation or detraction of both ears, giving rise to decided dullness of hearing.

It is shown also that claimant has been a constant sufferer since his discharge by reason of his deafness and incapacitated for work fully one-qnarter of the time, and has received continued medical treatment for deafness since discharge without any beneficial results, and that the said deafness is permanent.

The Pension Office ordered a special examination of this case, which from the records was made without notice to claimant and without his knowledge, and twelve persons were examined who testified that deafness existed prior to enlistment, though it was much worse after claimant's return from the service. The testimony given upon this examination is very voluminous and comes from persons intimately acquainted with claimant, prior to and since service, and seems positive, and while taken in absence of claimant is certainly entitled to great credit.

Your committee therefore see no reason to reverse the decision of the Pension Office, and report adversely, and recommend that the bill lie on the table.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 435.

# RICHARD GEAR.

FEBRUARY 11, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CONGER, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 3921.]

*The Committee on Invalid Pensions, to whom was referred House bill* 3921, *having given the same due consideration, beg leave to report:*

That Richard Gear, late a private in Company G, Twentieth Iowa Volunteers, is now drawing a pension of $21 per month for disease of eyes, said disability being the result of fever, with which the claimant suffered about July 3, 1863, while in the service. About September, 1884, he became totally blind and applied for an increase of his pension in consequence. His application was rejected, for the reason that "loss of vision did not result from the disease of eyes for which pension was granted." This decision was based upon an examination and report of an oculist, Dr. F. E. Cruttenden, made January 5, 1885, from which we extract the following objective symptoms:

Slight ophthalmia; no fixation; a little conjunctivitis; no evidence of severe inflammation or granulation of lids; no adhesion of iris; pupils widely dilated; refracting media clear and a little myopic; retina and choroid show no evidence of any inflammatory trouble; vascular supply reduced one-half; disk depressed; grayish white atrophy; depression does not indicate chronic or absolute glaucoma; vision apparently nothing; says he cannot see light; slight degree strabismus, divergent. I think he is afflicted with ataxia, and that his loss of vision is a direct result. Whether the the ataxia was acquired after or before he left the service I am unable to decide.

The proof upon which his present pension was granted, which was abundant and clear, was that while on guard duty soon after recovery from a severe fever he became suddenly blind, and had to be led to camp, his vision being ever after impaired, and his eyes more or less inflamed, and so continuing, part of the time troubling him but little, and at other times very seriously.

Two previous medical examinations find:

Chronic granulations of both lids, and decided opacity of pupil.

A third, by a full board, says:

The lids are granulated, and indicate chronicity. The eyes are blear. There is congestion of the conjunctiva of the ball and photophobia.

The Pension Office, taking the opinion of the oculist, Dr. Cruttenden, that the loss of vision was the result of ataxia, reject the claim because "ataxia was not alleged or proven to have been incurred in the service."

It does not seem probable that the claimant would know or allege that ataxia was a result of the fever, but he does know and allege that his present disease of eyes is the result of the said fever; and it seems from a comparison of the diagnoses furnished by the three medical examinations with that of the oculist, and the fact that the symptoms attending the first disability in the service were the same as when total blindness resulted, that the ataxia was the result of the fever, and the total blindness the result of the ataxia.

Luther Gear testifies:

I have lived near him and been with him since 1865 to this date (December 15, 1883), and his eyes have been growing worse all the time. I have nearly every year since, or some one else has, had to help him put in his crops. At times during the whole time since 1865 he has been laid up with his eyes, and in the last six months his eyes have failed very much. He can hardly see to walk around now, and not able to do any work.

Dr. M. D. Sloan testifies, May 21, 1885:

About six months ago I made an examination of claimant at his request and found him to be totally blind in both eyes from chronic glaucoma, the pupils widely dilated and immovable, the eyeballs prominent, and the tension increased to T + 2. His nervous system seemed to be in a very irritable condition.

From all the testimony in this case, both lay and medical, it is quite apparent that the same affliction which caused the disability in the service has continued to this date and has gradually resulted in total blindness, and if he was entitled to the pension for partial disability he is clearly entitled to the increase when the increase of that disability has made him totally helpless, and should not be withheld for the reason that claimant did not use the scientific and technical name in alleging his original disability.

The proof shows that the soldier is not only blind, but utterly helpless, in abject poverty, and rapidly failing health.

Your committee therefore recommend the passage of the bill.

C

NGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
ssion. } { No. 436.

# AARON C. JOHNSON.

r 11, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

GER, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4905.]

*mittee on Invalid Pensions, to whom was referred House bill* 4905, *having given the same due consideration, report:*

Aaron C. Johnson entered the service June 8, 1861, as captain Independent Ohio Battery, served through the entire war, being d out at the close as lieutenant-colonel of the One hundred and eighth Ohio Infanty. He filed his application for pension Janu- 1884, alleging that while in line of duty from exposure at Mur- ough, Tenn., during the winter of 1864 and 1865, he contracted diarrhea and heart disease, which still continues. This was re- or chronic diarrhea, because it was not troubling him at time of examination, and for heart disease, because it was due to rheu- prior to enlistment.

ejection seems to have been based entirely upon the following examination:

nic diarrhea;" says he has none now. "Disease of heart;" says he had me- heumatism about thirty years ago, and that while in the service, riding on a began to have short breathing and trouble with his heart. We find an ex- regular heart-beat, intermittent, with unusually well marked mitral regurgi- le is in his present condition totally disabled for manual labor. While the may not have developed until after he was exposed in the service, the ty is that the rheumatism, occurring prior to his entering the service, was the his heart disease.

*ontra*, we have Dr. Taylor, the assistant surgeon of claimant's t, who swore that claimant contracted chronic diarrhea in the and that he treated him for the same. And Dr. Harlow, of gton Court House, Ohio, who testifies that he has known him ly for twenty-five years; that he was sound and healthy when ted; that he returned from the war with chronic diarrhea and ouble, and that he treated him for the same at various times, out 1880 claimant moved to Iowa.

. C. Coffman, of same place, also testifies:

quainted with Dr. A. C. Johnson before, during, and after the war. I was his ysician several years preceding the rebellion. I was well acquainted with e time of his enlistment, and know him to have been a sound and healthy ter his return home at the close of the war I prescribed for him frequently ic diarrhea every summer while he remained in the vicinity. He also was ng at the same time with heart trouble, such as palpitation and a smothering . For heart I gave him no treatment as I now remember.

O. A. Allen, M. D., Washington Court House, Ohio, testifies cally the same, and that he examined him for life insurance in 1866, and that on his report the company rejected him.

Dr. I. D. Payne, Linden, Iowa, testifies:

Have known claimant since September, 1880, having been his attending p Have treated him at different times for chronic diseases, that I have reason t date back many years prior to my first treatment. Find him afflicted wi lesions of the heart-valves, chronic, also has chronic dysentery, condition e: the time of my first acquaintance with him. Has been much of the time, o of chronic dysentery, confined to his bed and room, and never being free fron of the disease but a short time at once. There has been a gradual decli health, on account of above diseases, since my first treatment and knowled case in September, 1880.

With such an array of testimony as to prior soundness and c and continued disability since, and in view of his four full y arduous service, it seems hardly fair to fix upon a single attack matism of thirty years ago as the prime cause of his disability.

Your committee believe him clearly entitled to a place upon sion roll, subject to the provisions and limitations of the pensic and therefore recommend the passage of the bill.

CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 437.

# CHRISTIAN SMARZO.

ARY 11, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

ONGER, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4903.]

*ommittee on Invalid Pensions, to whom was referred the bill (H. R. ) granting a pension to Christian Smarzo, having given the same ful consideration, report:*

t Christian Smarzo was an employé in the Quartermaster's De- ent, United States Army, during the war of the rebellion, and hile so employed as a fireman on a locomotive engine, near Big y, Ga., on the 25th of September, 1864, the train was attacked ptured by the enemy; claimant was wounded by a gunshot wound side, taken prisoner, held as such for three months, paroled, fur- d for three months, and then returned to same duty.

application for pension was rejected on the ground that "he was the military service of the United States at the date of receipt and." It is true claimant was not enlisted and mustered into the e, but he was performing a most perilous yet meritorious service, at required a very high order of courage and soldierly valor. He rounded and taken prisoner while at his post of duty, and as deserves reward as does he who fought with gun or sword.

r committee therefore recommend that the bill do pass.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 438.

# H. W. McDONALD.

FEBRUARY 11, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CONGER, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4490.]

*The Committee on Invalid Pensions, to whom was referred House bill 4490, having considered the same, beg leave to report:*

That the claimant, H. W. McDonald, enlisted as a private in Company A, Fifth Iowa Volunteers, July 15, 1861, and was discharged April 19, 1863. His application for pension was rejected on the ground "that disease of heart existed prior to enlistment." This theory seems to have been based entirely upon the statement in his certificate of disability for discharge; that he had "hypertrophy of the heart, of several years' standing, and had been unfit for duty most of the time since he enlisted."

Claimant furnishes testimony of six respectable witnesses, physician, neighbors, schoolmate, comrade, and lieutenant of his company, that he was perfectly sound and healthy prior to and at the time of enlistment.

The certificate on which he was discharged proves conclusively the existence of disease *in* service; continuance since is clearly proven by both medical and lay testimony.

Two special examiners were sent out by the Department, and twenty-five witnesses examined. Many of them testify positively to prior soundness; "that at enlistment he was a boy of seventeen, robust, full of health and vigor." Some of them did not know his condition then; and only one—a doctor, who *thought* he had prescribed for him on account of heart disease in 1861—gave any testimony indicating existence of disease prior to enlistment.

Capt. William Dean, who signed his discharge with the statement as to prior existence of heart disease, testifies in examination by special examiner upon this point:

> Perhaps I was a little rough on him at that time. I did not know him prior to service. He had been appealing to me for a discharge, claiming heart disease. We expected active service at that time, and I wanted to get rid of this class of men, and I discharged him.

Without quoting further from the voluminous testimony, your committee are very strongly of the opinion that this explanation of Captain Dean, together with the fact that examinations were quite strict in those early days of the war, the extreme youth of soldier, and his service of nearly two years before discharge, are amply sufficient to overcome the evidence of prior disease in his certificate of discharge, and to warrant the relief by Congress, which the Pension Office, following the strict letter of the law, did not feel authorized to grant.

Your committee therefore recommend the passage of the bill.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 439.

# PERRY JOHNSON.

FEBRUARY 11, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. CONGER, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4813.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4813) granting a pension to Perry Johnson, submit the following report:*

That Perry Johnson, late a private of Company C, Third Iowa Cavalry Volunteers, is now on the pension-roll at the rate of $50 per month, for total and permanent helplessness, the result of gunshot wound in left side, received at Pea Ridge, Ark., March 5, 1862. This rate of $50 per month was granted him March 1, 1881. He has since filed two applications asking an increase to $72 per month, both of which have been rejected on the ground that "he is now drawing the highest rate to which he is entitled by law."

The act of June 16, 1880, increasing the pensions of those "utterly helpless" from $50 to $72 per month, was by its terms made applicable only to those persons *then* on the roll at $50. Therefore those who might be placed on the roll at that rate after that date could not receive the benefits thereof, no matter how serious their disability nor how deplorable their condition.

As to present condition of claimant, the proof is abundant and conclusive of his utter helplessness, continual suffering, and requiring the constant attention of another person; is confined to his bed all the time; cannot turn in bed without help; has to take morphine constantly to allay pain; still carries ball in his body.

The last official medical examination ordered by the Commissioner of Pensions, April 5, 1885, says:

Ball entered about near anterior superior spinous process of ilium on left side, taking its course backwards and downwards, leaving a well defined cicatrix as big as a dime-piece, with a dark-red discoloration of several inches around cicatrix; cicatrix very tender and discharging constantly thick pus. There is a hard and very tender tumor extending from cicatrix of point of entrance along iliac region, and partly down over thigh, supposed to contain pus. Left testicle drawn up and tender. Anasarca of bowels. There is a cicatrix on inside of thigh about at junction of middle and upper one-third, also freely discharging pus, seemingly a sinus in connection with abscess above. There is a third cicatrix on back, about 2 inches to left of spinal column, near junction of lumbar and dorsal vertebra, constantly discharging. Contraction and adhesion of muscles about cicatrices in back and thigh. Tenderness over whole spinal column. Very emaciated. Left knee hypertrophied, partly anchylosed, tender, painful, and stiff. Right lung hepatized and entirely useless; left lung

incipient hepatization; throat inflamed and ulcerated; difficulty about lungs induced likely by septæmia from extensive suppuration. This man has no pro of recovery, and needs the attendance of another person constantly.

Your committee can see no good reason why this unfortunate should not receive the same allowance as his brothers in like condi who happened to be on the pension-roll at $50 on June 16, 1880. therefore recommend the passage of the bill.

r CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
t Session. } { No. 440.

# CATHERINE L. BENTON.

FEBRUARY 11, 1886.—Laid on the table and ordered to be printed.

CONGER, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4492.]

*Committee on Invalid Pensions, to whom was referred House bill No. 4492, submit the following report:*

at Catherine L. Benton is the widow of the late James G. Benton, el of ordnance U. S. Army. She is now receiving a pension of er month. The object of this bill is to increase same to $50 per h.

ur committee deeming it advisable to adhere to their uniform rule anting this increase only to the widows of general officers, return ill to the House with the recommendation that it lie on the table.

O

I CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 441.

# EMERY C. PENNELL.

FEBRUARY 11, 1886.—Laid on the table and ordered to be printed.

CONGER, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4810.]

*Committee on Invalid Pensions, to whom was referred the bill (H. R. 10) for the relief of Emery C. Pennell, submit the following report:*

at the name of Emery C. Pennell is already borne upon the pension- and as the object of this bill is simply to place his name thereon, is no reason for its passage; wherefore your committee return it e House with the recommendation that it lie on the table.

O

H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 442.

# MARY E. SNOW.

RUARY 11, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

. HAYNES, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4122.]

*Committee on Invalid Pensions, to whom was referred the bill (H. R. 122) granting a pension to Mary E. Snow, submit the following report:*

homas Snow, captain of Company F, Second New Hampshire Regi-
it, was mustered June 4, 1861, and discharged for disability August
1862. He died April 18, 1880, and the claim of his widow, Mary E.
w, for pension, was rejected on ground that cause of officer's death
eumonia) was not due to the service.

hat Captain Snow lost his health in the service is established by an
eptionally strong line of evidence.

liver Fernald, of Great Falls, N. H., testifies:

at he was personally and intimately acquainted with the above-named Snow; said Snow was employed by the above-named corporation [Great Falls Manufact-g Company] as overseer of the weaving room; that previous to said Snow enter-the United States service, the said Fernald was superintendent of the machine and saw Snow almost daily, and he was a person of good health, sound and ust; that said Fernald never heard of said Snow being sick or disabled from his y labor a day for three years previous to enlistment. That after his return home was entirely broken down and suffering, as reported, with intermittent fever, ague chills, and chronic diarrhea; for a long time, some year or more, entirely unable erform any manual labor, and from our intimacy and conversation, and his debil-ed condition, in my opinion he was three-fourths disabled from performing manual r up to the time he went to Marblehead, 1872.

Freeman Chick and Calvin H. Weymouth, both of Great Falls, ongly corroborate this testimony.

During the period covered by this testimony claimant was unable to nish medical testimony, for the reason that Drs. C. F. Elliott and J. Buckman, who treated him, are dead. But the period from 1872, en he removed to Marblehead, until his death, is covered by Dr. V. B. Morse, of Marblehead, whose reputation is vouched to the De-tment as "excellent," and who certifies:

was the physician of Thomas Snow, and attended him eight years, more or less, to the time of his death. The first time I was called to attend him he was suf-ng quite severely from an attack of intermittent fever associated with chronic rrhea, which he alleged were contracted while in the military service of the United tes in the line of his duty. From the time I was first called to see him up to the e of his death he was a constant sufferer from the above diseases, which gradu-r reduced his health, until they finally caused his death on the 18th day of April,

1880. For the last eight years of his life his health was such that he could not perform but a very limited amount of manual labor. There can be no doubt of the fact that the above diseases, which resulted in his death, were contracted in the Army.

In response to a subsequent letter of inquiry from claimant's attorney, he wrote:

I now recall at the time of his death he took a severe cold, and in his weak condition he was sick but a very short time with this cold, and died. I think that at his death the cause was reported at the time pneumonia, but I am positive that the cause of death was due to the diseases contracted in the Army.

Captain Harrison D. F. Young and Lieut. Samuel P. Sayles, both of the Second Regiment, testify to the perfect health of Captain Snow when he assumed command of his company in June, 1861, to the incurrence of a severe dysentery on the march to first Bull Run, which afterwards assumed a chronic form; also to malarial symptoms; the combined effects of which finally broke him down and led to his resignation.

The Adjutant-General United States Army reports the organization books incomplete, but medical certificates upon which he was granted leave of absence in July, 1862, set forth that he was suffering with bilious diarrhea, attended with a good deal of fever.

The line of evidence establishing prior soundness, incurrence of disability in the service, and continuance of the disability in severe form until his death, is unimpeachable. The rejection of the widow's claim was upon a technicality which overruled and ignored the sworn opinion of the reputable physician who attended Captain Snow for eight years and in his last sickness.

The committee recommend the passage of the bill.

C

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. { { No. 443.

# MARY B. SMITH.

RY 11, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

HARA, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 3505.]

*mmittee on Invalid Pensions, to whom was referred the bill (H. R. ) for the relief of Mary B. Smith, after considering the same, sub- he following report:*

applicant, Mary B. Smith, is the mother of Leonard A. Smith, private in the Seventh Wisconsin Battery of Light Artillery teers, who was captured and taken as a prisoner after or during gagement with the enemy at or near Guntown, Miss., on or about th day of June, 1864, and confined at Andersonville prison, in ia, and at Charleston, S. C. The said Leonard A. Smith died he effects of starvation and exposure suffered while confined in presaid prisons, as shown by the following letter on file with ap- t's papers in the Pension Office:

HOSPITAL STEAMER GEORGE LEARY,
*Port Royal Harbor, South Carolina, December* 17, 1864.

SIR: Leonard A. Smith, Seventh Wisconsin Battery Light Artillery, died off his steamer this day from the effects of starvation while a prisoner. His ef- n will find inclosed. He was buried at Beaufort, S. C. Was received from ls in Charleston Harbor the 16th instant. For further particulars address the t General, Washington, D. C.
espectfully,

HENRY C. SMITH,
*Clerk George Leary.*

n the testimony in the case it appears that the applicant and her nd, Ami Smith, are quite aged, both being nearly seventy-five of age. That they were somewhat dependent on the son, Leon- Smith, for support, is established by affiant's declaration and the ony of Noah Staple, who states on oath:

e been personally and intimately acquainted with Mrs. Mary B. Smith and ily and the circumstances by which they are and have been surrounded since r 1863. She was the mother of three sons, Luther B. Smith, Leonard A. Smith, stavus A. Smith, all of whom enlisted and served in the United States Army the war of the rebellion. The said son Leonard A. Smith enlisted in the Seventh sin Battery of Light Artillery Volunteers as a private on or about the 12th of ber, 1863; was captured during or just after an engagement with the enemy ar Guntown, Miss., on or about the 11th day of June, 1864, while acting under ful orders of his superior officers and in the line of his duty; was taken as a of war to Andersonville, Ga., and there starved and inhumanly treated, from cts of which he became sick and died. The said Leonard A. Smith was re-

ceived on board the hospital steamer George Leary from the rebel authorities in Charleston Harbor, South Carolina, on the 16th day of December, 1864, and died on board said steamer on the 17th day of December, 1864, from the effects of starvation while a prisoner of war, and that the said soldier left surviving neither widow nor child, having never married; that he always contributed toward the support and comfort of his mother during his life-time; that the said applicant and her husband own some property, worth in the aggregate about $80 , and in their old age this does not furnish them a support, owing to their advanced age and poor health, and they are unable, in any manner whatever, from gaining their support from any personal efforts of their own.

This witness is corroborated by others.

Your committee, in view of the fact that this aged couple furnished three sons to defend their country in time of its need, one of whom suffered all the horrors of a cruel death, should not in their old age be left to buffet against the cold winds of adversity, unaided by the Government, and therefore recommend the passage of the bill, after striking out all after the word "pension," in line nine, and inserting, "as provided by law for dependent widows and mothers."

O

CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 444.

# GEORGE W. GUYSE.

RY 11, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

HARA, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 3205.]

*mmittee on Invalid Pensions, to whom was referred the bill (H. R. ) granting a pension to George W. Guyse, submit the following re-*
:

claimant enlisted on the 25th day of September, 1863, for one s a private in Company L, First Alabama Cavalry, and was dis- d September 28, 1864, and filed his application for a pension on ound of disability incurred while in the service and in the line of o wit, a gunshot wound in the left knee received in a skirmish e enemy at Jackson, Tenn., on or about the 25th day of Decem- 863. Said claim was rejected on the ground that there is no of the alleged gunshot wound of left knee, and no satisfactory ce showing the origin of said wound while in the service in the duty, and claimant declared his inability to furnish further testi-

mant alleges that at Jackson Tenn., about December 25, 1863, he d a gunshot wound in left knee immediately below the knee-cap, ngaged in a skirmish with Forrest's command, and that he cannot the testimony of a commissioned officer, for the reason that his was not in command when he was wounded, but was on de- service and never was in actual command of the company; that nant Fishback, who was in command, is dead, having died before nt filed his application for pension; and that Lieutenant Fiter be found, although he had made diligent search and inquiry n, and that he is unable to furnish further testimony of comrades persons who saw and examined his wound at the date of dis- except David Cummings; that affiant is a cripple and extremely nd it is utterly impossible for him to make any further proof of who saw his wounds at the date of his discharge.

Fleetwood, a comrade, swears that on or about the 24th of De- r, 1863, while engaged in battle with Forrest's command near n, Tenn., the claimant was wounded in the left knee, and, to the affiant's belief, was taken to a field hospital near Corinth, Miss., ated for his wound for about six weeks; that he saw claimant times while he was in the hospital, and examined his wound, as present when he was wounded, and knows that he was ed while engaged in battle, and saw him taken off the field while ht was going on.

Peter F. Holt, another comrade, swears to substantially the sam state of facts.

Dr. James W. Stewart swears that he examined the claiman wounded leg, and that the wound is located in the left leg immediate below the patella, or knee-cap, it being in affiant's opinion the result a gun shot; ball penetrated below the knee cap, dividing the tendon th unites the patella to the tibia, and has destroyed the usefulness of t limb to the amount of about one-fourth of total disability, and that had known claimant about one month.

Dr. A. H. Jones swears substantially to a similar state of facts, an that he did not know claimant prior to the examination.

David Cummings swears that claimant was wounded while engag in action; that he examined his wound about the time he was discharge and a month or two afterwards; there was a deep scar just below t left knee-cap, the leg above and below the wound being considerab shrunk and smaller than the right leg; there was a sink, as well as remembers, at a point where scar is located, and seemed to affia that some of the bones or tendons had been wounded, causing claima to limp very badly, left leg seeming to be shorter than the right; a ant lived near claimant after he returned from the Army, and saw h very frequently.

Dr. James W. Stewart is also the examining surgeon of the Pens Office, and rated applicant's disability to about $6 per month.

It is but fair to state that there is some evidence of other part tending to throw some shadow on the credibility of claimant's testimo and if taken alone might create a doubt of his right to a pension; a as we rely upon the examination made by the medical experts, one whom was an agent of the Government, we cannot fail to conclude th claimant received his disability in the service and in the line of du and therefore recommend the passage of the bill, after striking out after the word "cavalry" in line 7.

O

ITH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 445.

# JOSEPH W. BURCH.

FEBRUARY 11, 1886.—Laid on the table and ordered to be printed.

r. O'HARA, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 3506.]

The Committee on Invalid Pensions, to whom was referred the bill L. R. 3506) for the relief of Joseph W. Burch, have had the same un- ır consideration, and report back the same with the recommendation at the said bill be laid on the table, and that the committee be dis- ıarged from further consideration thereof.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 446.

# WILLIAM L. SLOAN.

FEBRUARY 11, 1886.—Laid on the table and ordered to be printed.

Mr. O'HARA, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 1282.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1282) granting a pension to William L. Sloan, have had the same under consideration, and make the following report:*

Your committee find that the applicant, William L. Sloan, is at present receiving a pension of $8 per month, under special act of Congress, approved February 26, 1865. We therefore ask to be discharged from the further consideration of said bill, and recommend that the same lie on the table.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 447.

# MARGARET A. BLAKE.

FEBRUARY 11, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SWOPE, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 2021.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2021) granting a pension to Margaret A. Blake, widow of George A. H. Blake, late colonel of the First Cavalry and a brevet brigadier-general in the United States Army, have had the same under consideration, and submit the following report:*

General George A. H. Blake was born in Pennsylvania and appointed from that State first lieutenant Second Dragoons, June 11, 1836; in Florida to 1841, and engaged in actions with the Seminole Indians at Fort Welborn, Jupiter Inlet, and other engagements; captain Second Dragoons, December 3, 1839; was in the Indian Territory and Texas; in the war with Mexico, and engaged in the battles of Cerro Gordo, defense of Pueblo, battles of Contreras, Molino del Rey, Chapultepec, and City of Mexico; brevet major U. S. Army, August 17, 1847, for gallant and meritorious conduct in an affair at Saint Augustine, Mexico; major First Dragoons, July 23, 1850; in Missouri, Texas, New Mexico, Arizona, California, Nevada, Oregon, and Washington Territory to 1861, and engaged against the Apache and Navajo Indians; lieutenant-colonel First Cavalry, February 15, 1862; engaged in the Seven Days' fight and battle of Gaines's Mill, Virginia (in which he was slightly wounded); chief commissary of musters, Department of Virginia, to April, 1863; chief commissary of cavalry corps, Army of the Potomac, to December, 1863; was present at the actions of Aldie, Middletown, Upperville, and battle of Gettysburg; special duty in the cavalry bureau, Washington, D. C., to April, 1864; commanding cavalry depot Giesboro' Point, Maryland, to September 1, 1864; special duty to February, 1865; member of a military commission at Washington, D. C., to March, 1866; brevet brigadier-general U. S. Army, March 15, 1865, for "gallant and efficient services during the Gettysburg campaign;" commanding regiment and post of Fort Vancouver, Wash., and retired at his own request "for over forty years' service," December 15, 1870.

Thus it will be seen that for forty years and in three wars this faithful officer served his country in various positions of trust and responsibility, and finally retired from the service full of years and honors. The claim of his widow for pension was rejected on the ground that the "fatal disease originated subsequent to his retirement."

Strictly construed, as the law must necessarily be by the Pensi partment, this was probably a correct decision for that departm make. But giving due weight to all the consequences and effec service continued for so many years and in every variety of climate the Gulf of Mexico to the Pacific, and from the City of Mexico t tysburg, your committee are of the opinion that it is not proven th death did not originate from disease contracted in the service, a disposed to give his widow the benefit of the doubt as to this poi they are further of the opinion that, in view of the long and va services of General Blake, his widow, who is in impoverished c stances, should have the pension asked for in the bill, and they the recommend its passage.

C

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 448.

# WILLIAM PAUGH.

FEBRUARY 11, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SWOPE, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 2070.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2070) granting a pension to William Paugh, have examined the papers on file in the Pension Department, and make the following report:*

They find that the Committee on Invalid Pensions, Forty-eighth Congress, had this claim before them for their consideration, and made a report thereon, which this committee believes to be a true presentation of the case, and which, having verified by a close examination of the papers, they adopt as their own, and ask that it be so considered.

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William Paugh, the soldier above named, enlisted as a private in Company D, Sixty-ninth Regiment Pennsylvania Volunteers, September 10, 1861, and was honorably discharged from the service July 14, 1865, and filed his declaration for a pension September 6, 1865, for disability incurred from a gunshot wound of the right shoulder, June 15, 1864, from which he partly lost his speech and was injured in his lungs.

In a statement filed, the date of his injury is fixed in the spring of 1863, and exposure is set forth as an additional cause of his sickness. On muster-out roll, dated July 1, 1865, the soldier is reported as "absent sick." In May and June, 1863, he is reported "absent in general hospital," and is reported absent sick till December 31, 1863. The records of Surgeon-General's Office show that he was admitted to Mount Pleasant General Hospital, Washington, D. C., June 10, 1863, with contusion of back. They also show that he received a gunshot wound, and was treated in field hospital Second Army Corps, Chancellorsville, Va., May 4, 1863. That he was several times treated in the hospital, and that he entered private hospital, Chester, Pa., September 18, 1864, with fracture of humerus.

Two comrades, P. Connelly and Charles Rodgers, testify to his being wounded in the right shoulder at Bristow Station, Va., June, 1863. They also testify to the soldier's exposure at Harper's Ferry, from which claimant took cold, which settled on his lungs. They also testify to his soundness before and his disability since his military service.

Doctors Snyder and Delcamp testified to having treated the soldier in 1865, 1869, 1870, 1872, for lung and bronchial troubles, and the latter says for wound of right shoulder.

Comrade Rodgers says further that while he did not see the applicant hit, yet says he saw him go into a severe skirmish at Bristow Station, Va., sound and well, and that he saw him right afterwards with the wound.

The Pension Bureau rejected the claim for the reason that there was no record entered of the wound, and his inability to furnish satisfactory evidence of the fact that the wound was received as alleged. Neither of the reasons are well founded. The hospital record shows that the soldier was wounded May 4, 1863. That June 10, 1863,

he was treated in the general hospital for contusion of the back; that in April, 1864 and May, 1865, he was in the hospital for fracture of humerus.

The difficulty has clearly happened through carelessness in inserting the wrong date in the declaration, and from the carelessness in the surgeons not stating fully the facts concerning the injury; for instance, how the fracture of the humerus occurred. Had it been done it is manifest that it would have then appeared on the record that the same was caused by the explosion of a shell or from gunshot wound. Neither is it correct that the injury is not proven independent of hospital treatment.

Another reason given is that no disability now exists as shown by the board of surgeons. Yet the affidavits all go to show the contrary. In 1865 the Surgeon-General's report rates him at one-half disability, and in 1880, Examining Surgeon Strawbridge rates him at three-eighths.

The committee are of the opinion that the soldier is entitled to a pension and recommend the passage of the accompanying bill.

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 449.

# E. B. SWEENEY.

RUARY 11, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

. SWOPE, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 3633.]

The Committee on Invalid Pensions, to whom was referred the bill H. R. 3633) granting a pension to E. B. Sweeney, report that they have refully considered this claim, and find that E. B. Sweeney, the claimnt, enlisted for nine months in Company F, One hundred and thirtyth Regiment Pennsylvania Volunteers, and at the expiration of this rm of service he returned home, and re-enlisted December 25, 1863, the Signal Service, from which he was discharged August 22, 1865. Claimant alleges that in June, 1865, in the night on the march from Winchester to Berryville he was crushed against the pommel of his sadle: that he could scarcely retain his seat until the next morning when e detachment returned to Winchester; that he was relieved from ty, and was unable to perform any service from that time until his al discharge. He alleges great difficulty in procuring the necessary oof on account of the nature of the service in which he was engaged, e detachment being detailed for special duty, consisting frequently of t men from various organizations with no regular surgeon to whom ey could apply.

The evidence of his father and that of companions who knew him well his earlier days, together with that of an Army comrade, sufficiently ove that he was entirely sound when he entered the service. Of this ere is no question.

Charles F. Cross testifies that he was late Chief Signal Officer in the nited States Army; that claimant was in his command in the Shenadoah Valley, Virginia, in 1865, and that he is satisfied that claimant as injured in the discharge of his duty.

C. R. Morehead testifies that he was a member of the Signal Corps nd attached to Lieutenant Cross's detachment, and part of the time he ented with claimant. That he remembers he returned to camp from ome detached duty disabled in such a manner as to disqualify him for luty. This was in the early summer of 1865. That the claimant was furloughed home for a time in consequence of said disability. He further states that the injury was received whilst in the line of duty. This is about all the evidence which the claimant, for the reasons above stated, is able to procure as to the time and manner in which his disability was received.

Dr. D. D. Taylor affirms that he has attended claimant a number of times during the last four years for acute diseases, and that in every

case there was derangement of the liver and a lack of biliary secret He believes that the liver and the duodenum are the parts inju that there is induration of the right lobe of the liver, which has b the exciting cause of his acute attacks, and affiant thinks he will ways be subject to these attacks.

Dr. John C. Taylor testifies that he made an examination of the cl ant; that he has an enlargement in the right lumbar region, whicl testifies to be due to a partial rupture of the abdomen, and that his lief is that no surgical skill can avail in the way of cure.

An analysis of the evidence shows (1) that claimant was undo edly a sound man when he entered the service, and that he remai so until the alleged injury was received near Winchester; (2) that injury was severe at the time, and that it disabled him from further ive service; (3) that the effects of the injury continued, disabling from hard work, frequently laying him up, and requiring the att ance of a physician. He is also poor and in great need of the help wl the pension asked for would afford him.

In view of these facts your committee are of the opinion that claim for a pension is a just one, and they therefore recommend the to the House for its favorable consideration.

[illegible] CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 450.

# HENRY MARTIN.

[illegible]RUARY 11, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

[illegible]. DORSEY, from the Committee on Private Land Claims, submitted the following

## REPORT:

[To accompany bill H. R. 1418.]

*[illegible]e Committee on Private Land Claims, to whom was referred the bill (H. R. 1418) for the relief of Henry Martin, respectfully submit the following report:*

Henry Martin made homestead entry No. 15209, at Lincoln, Nebr., December 15, 1874, of the E. ½ SW. ¼, and W. ½ SE. ¼, Sec. 2, T. 11 N., R. 4 E., containing 160 acres. It appears that Martin's entry to the W. ½ SE. ¼ was erroneously allowed by the register and receiver, as the same was embraced in a prior entry.

The fact that the 80 acres had been embraced in a prior entry was unknown to Martin, and it was selected by him in good faith and upon the assurance of the register and receiver that the land was vacant and unappropriated public land.

Martin, immediately upon making said entry, took possession of the land, erected a house and made valuable improvements, and made it his home. Sixteen months after the entry and occupation of the land he was advised by the Commissioner of the General Land Office that his entry was held for cancellation to the extent of said 80 acres, and he was allowed to retain the E. ½ of SW. ¼, Sec. 2 (80 acres), as his homestead, or have his entire entry canceled and be allowed to make a new entry.

The land, in the time intervening between his entry and his receiving information that the register and receiver had made an error in allowing his entry of said 80 acres in conflict, had all been taken up for miles beyond this tract upon which he had made his home and improvements.

Martin was a poor man, who had lost his leg while in line of duty as a Union soldier during the late war (as a private in Company A, Eighth New Jersey Volunteers).

Every dollar he had was invested in this land, and it was a matter of impossibility for him and his family to leave their home and commence anew. He therefore remained on the 80 acres which were not canceled.

Martin subsequently applied for permission to make an additional entry. This application was denied, as his entry was made after the Revised Statutes took effect.

Martin has continuously endeavored from that time to this to secure an additional entry of 80 acres, but has been informed by the Land Office that his only remedy would be relief by special act.

This is a meritorious case. Martin has, through no fault of his, but

by reason of an error of the officers of the land office, been d of the right to letters patent for 160 acres, to which he would ha entitled had no error been made by the local officers. He is a soldier with a large family who are dependent upon his labor port. He therefore asks simply justice, viz, that he be granted the amount of 80 acres, which he may locate upon any of the u priated public land in the State of Nebraska which is not mi character.

The committee recommend that the bill do pass.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 451.

# PRIVATE LAND CLAIM IN NEW MEXICO.

FEBRUARY 11, 1886.—Laid on the table and ordered to be printed.

Mr. O. B. THOMAS, from the Committee on Private Land Claims, submitted the following

## REPORT:

[To accompany bill H. R. 1208.]

*The Committee on Private Land Claims, to whom was referred the bill (H. R. 1208) to confirm a certain private land claim in the Territory of New Mexico, submit the following report:*

The committee in considering this bill submitted it to the Secretary of the Interior, with a request for information relative thereto from the records of his Department. The Secretary of the Interior referred the request to the Commissioner of the General Land Office, whose letter in response thereto is hereto appended and made a part of this report.

Your committee, after considering the facts set forth in the letter of the Commissioner of the General Land Office, recommend that this bill do not pass, but do lie upon the table.

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DEPARTMENT OF THE INTERIOR,
*Washington, February* 6, 1886.

SIR: I have the honor to acknowlege the receipt, through reference by Hon. O. B. Thomas, of House bill 1208, to confirm a certain land claim in the Territory of New Mexico, with a request for information relative thereto from the records of this Department.

In response to your reference and request, I transmit herewith a communication from the Commissioner of the General Land Office, dated the 3d instant, to whom your letter, with the copy of the bill inclosed, was referred.

Very respectfully,

L. Q. C. LAMAR,
*Secretary.*

CHAIRMAN *Committee on Private Land Claims, House of Representatives.*

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DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
*Washington, D. C., February* 3, 1886.

SIR: I am in receipt, by Departmental reference, for report, of a letter dated January 20, 1886, from Hon. O. B. Thomas, of the Committee on Private Land Claims, House of Representatives, inclosing H. R. No. 1208, "to confirm a certain private land claim in the Territory of New Mexico."

This bill provides for confirmation of title to the alleged private land claim known as the Arroyo de San Lorenzo grant No. 79; the heirs and legal representatives of Antonio Chaves claimants.

It is proper to state that the papers presented in the case, copies of which have been transmitted to Congress, are themselves copies only of alleged originals, and

that there is no evidence in this office of their authenticity. The proceedin
before the surveyor-general were *ex parte*, the grant claims only being heard o
resented, and there is nothing in the case to show that the interests of the U
States were considered in such proceedings.

The record of proceedings transmitted by the surveyor-general recites that o
ruary 16, 1825, Antonio Chavez presented a petition to the provincial deputat
New Mexico, then in session at the city of Santa Fé.

In this petition it was set forth that, finding himself very much crowded in th
session of his property and its appurtenances, as well in the pasturing of his
as in the extension of agriculture, and desiring to remove to another place of g
capacity with the honest purpose of enlarging both businesses, he asked for a
of land within the following boundaries: On the south the rancho of Pablo G
on the north the little table-land of the Alamillo; on the east or west the
Spring, and on the west or east the river known as the Del Norte.

This petition was referred by the provincial deputation to the governor, a
February 25, 1825, this official made his report, recommending that the gra
made, and giving his reasons therefor. The deputation then made the gran
authorized the grantee to present himself to the Alcalde at Socorro, in order t
might be placed in possession, at the same time directing that a certified copy
proceedings be given him to serve as a muniment of title.

On April 20, 1825, Juan Francisco Baca, constitutional alcalde, of San I
del Socorro, placed said party in possession of the tract asked for in the petitio

Surveyor-General Proudfit, in his report dated January 5, 1874, expresses no o
directly concerning the genuineness of the title papers filed in the case. He r
mends, however, that the title to the land be confirmed to the legal represent
of Antonio Chaves.

This grant (if there was such a one) made in the year 1825, *subsequent* t
colonization act of 1824, which limited the area to be granted to one individu
colonization purposes to "one league square of land suitable for irrigation
square leagues in superficies of arable land without the facilities of irrigatio
six square leagues in superficies of grazing land."

Juan Francisco Baca, in his testimony before the surveyor-general, states th
was at the time the grant is supposed to have been made alcalde constitut
that the departmental deputation sent him an order to place Antonio Chaves i
session of said sitio, and that he placed the said Chaves in possession.

The word "sitio" as defined by Mariano Valazquez de la Caneda is "place
taken up by a body," "situation of a town or other place." "A farm for reari
tle." "A small division of a farm for rearing cattle."

A *sitio*, as applied to land measurement in the Mexican Republic, comprel
two kinds, viz: Sitio de ganada mayor, 25,000,000 square veras, or 4,438.68 acr
a sitio de ganada menor, 11,111,111⅓ square veras, or 1,813.32 acres. The clai
by Chazes does not appear to be for the purpose of colonization, but for his ow
vidual use and benefit. It would, therefore, seem that his claim should in any
be considered only to the extent of the maximum quantity which the Mexica
ernors were authorized to grant to individuals, which was one sitio de ganada
(one league square), or 4,438.68 acres.

Under date of November 4, 1885, Messrs. Sheldon & Tiffany, of Socorro, N. Me
letter to this office requested that the surveyor-general be instructed to inve
this alleged grant, stating that the preliminary survey (which covers an a
130,138.98 acres) was erroneous, including much more land than was supposed t
been granted, and that the evidence as to the validity of the grant was unsatisfa

Under date of January 7, 1886, the parties were advised that under instru
from this office dated December 2, 1885, the surveyor-general was authorized
vestigate any private land claim which had been reported by his predecess
make a report for the information of this office and Congress, for action thereo

It appears by a paper filed in the case that under date of October 26, 1850, I
Pino, widow of Antonio Chavesy Aragon, conveyed by deed to Rafael Luna, A
cio Garcillo, and Ramon Luna, the title papers relied upon as evidence of title
case, together with the land covered thereby, consideration $500; and these a
parties who are now claiming confirmation.

The only evidence showing that the said Chaves and his legal representative
inhabited and cultivated the "sitio" is the affidavit of Juan Francisco Bac
swears that he "placed Antonio Chaves in possession in due form of law. H
possession and kept continuous possession of the same until his death. His he
the sitio to Ramon Luna, Rafael Luna, and Anastacio Garcia. They have c
nously occupied the said sitio up to the present time."

Subsequently to the report of the surveyor-general a preliminary surve
made of this alleged grant, which gives a frontage of a little more than 3 m
the Rio Grande River, runs back due west over 25 miles, thence north over 12
thence southeast about 29 miles; and embraces 130,138.98 acres, an area larg

excess of the quantity authorized by the Mexican Government to be granted to individuals.

It is apparent that claimed exterior boundaries were surveyed without segregation of the quantity within such boundaries to which claimants might be entitled if their claim should be confirmed. There is great doubt whether the alleged grant is authentic, or whether, if authentic, the conditions upon which it was made were complied with to an extent to vest in the grantee or his legal representatives any actual property rights under the laws of Mexico prior to and existing at the time of the cession of territory to the United States. There is no doubt, however, that the claim as presented for 130,138.98 acres is utterly without foundation. In my opinion such claim is a palpable fraud upon the public domain. I recommend its summary and definitive rejection.

The letter of Mr. Thomas and its inclosures are herewith returned.

Very respectfully,

WM. A. J. SPARKS,
*Commissioner.*

Hon. L. Q. C. LAMAR,
*Secretary of the Interior.*

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TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPOR No. 452

# POLLY HALL.

BRUARY 11, 1886.—Committed to the Committee of the Whole House and ordere to be printed.

r. WINANS, from the Committee on Invalid Pensions, submitted th following

## REPORT:

[To accompany bill H. R. 3141.]

*he Committee on Invalid Pensions, to whom was referred the bill (H. R 3141) granting a pension to Polly Hall, have had the same under consid eration, and submit the following report:*

That Polly Hall is the mother of Amos L. Hall, late a corporal i Company G, Fourth Regiment Michigan Volunteer Infantry, who en listed May 16, 1861, for three years or during the war, and on the 27t day of June, 1862, at the battle of Gaines Hill, Va., he received a gun shot wound in the right thigh, by reason of which he was discharge September 6, 1862. He applied for and received a pension at the rat of $8 per month until his death, February 26, 1881.

The files in the case show that shortly after his discharge he becam partially insane and gradually grew worse, and finally was, April 12 1871, sent to the Government Hospital for the Insane, at Washington where he died, as stated, February 26, 1881.

January 9, 1882, the mother of this soldier, Polly Hall, applied for pension as a dependent mother, which was rejected on the ground tha the insanity and ultimate death of the soldier was not attributable t the wound received in the service.

Upon this question the evidence before the Pension Office, both med ical and lay, is conflicting. On the 13th of December, 1870, the soldie in the case applied for an increase of pension, and it was finally referre to a special examiner, who submitted a report February 17, 1873, i which he says:

Amos Hall applied for increase of pension; he was pensioned for gunshot wound o the right femur from September 13, 1862, at $8 per month; he now applies, by hi legal guardian, for an increase, alleging that the disability has greatly increased an has resulted in insanity. The mother of claimant testifies that her son came home t Clinton, Mich., the latter part of September, 1862, very thin in flesh, and was ver nervous, restless at night, and subject to spasms and fits.

Dr. Philip Reeder, of Cleveland, ex-surgeon, says:

He first visited claimant in 1865; he was insane at the time; I am inclined to th opinion that the epilepsy and the insanity had its origin in the exposure and ex tremity of mind to which he was subjected. I have observed nothing in the soldier' habits or practices which, in my judgment, could produce his present mental ap physical condition.

Dr. John Dickenson, late assistant surgeon Thirtieth Ohio, and surgeon of One hundred and ninety-fifth Volunteer Infantry, says:

I am acquainted with Amos Hall. I examined him at the time he was sent to the Soldier's Home with a view of ascertaining whether his insanity was the result of military service. I reached an affirmative conclusion.

D. S. Oliphant, M. D., testifies:

That previous to his being wounded he was sound in mind and body; that owing to exposure after being wounded, being three days and nights on the battle-field before removal, he contracted brain fever, and was three months confined to hospital and discharged with shattered intellect, and has since lapsed into a state of incurable insanity.

Dr. J. C. Stanton examined claimant June 13, 1872, and finds gunshot wound and insanity, and rated him total first grade. The mother and sister of soldier both testify under oath that no member of their family was ever insane, to their knowledge; that claimant was a man of excellent habits and good health when he entered the service. He returned home in September, 1862, and had spasms from the day of his arrival, and was out of his mind much of the time; that they kept him at home as long as they could. The special examiner closes his report by recommending that the pension be increased to total first grade, $31.25. The report was not concurred in for the reason that the medical examiners were not able to arrive at the conclusion that insanity was the result of his service.

The mother's claim was also rejected on the ground that the death of the soldier was not traceable to the injury received in the service.

There is no question but that Polly Hall is the mother of Amos Hall; that she was dependent on him for support. Her husband is dead; she has no other children to support her; she is now eighty-four years of age, living on the charity of friends and contributions of Grand Army of the Republic posts.

In view of these facts, and that it is fair to presume that the suffering and exposure of the wounded soldier caused the brain fever resulting in insanity and death, your committee recommend the passage of the bill, and that it be amended in the sixth line by inserting after "Polly Hall" the word "dependent," and the letter "L" between Amos and Hall, so it will read "Polly Hall, dependent mother of Amos L. Hall."

○

ɔNGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
ssion. } { No. 453.

# JOHN A. DARLING.

FEBRUARY 12, 1886.—Laid on the table and ordered to be printed.

ıGG, from the Committee on Military Affairs, submitted the following

## REPORT:

[To accompany bill H. R. 1009.]

*mittee on Military Affairs, to whom was referred the bill (H. R. for the relief of John A. Darling, submit the following report:*

ɔmmittee have carefully considered this bill and fail to find any o support the claim for relief.

arling was honorably mustered out of the service on the 1st 'anuary, 1871, under the provisions of the act of Congress ap- July 15, 1870, providing for the reduction of the Army, with one ıy and allowances. He remained out of service until April 24, ıen, at his urgent solicitation, he was recommissioned a cap- ler an act of Congress passed for his benefit and approved 1878. He now asks that his service may be deemed continu- ıt is, that he shall be deemed to have been in the Army for t years and upwards that he was out of the service—in order pay may be increased by reason of eight years' service that ot perform.

he opinion of the committee that Congress has dealt most gen- with Captain Darling in restoring him to the service, and that not seem over modest in him, so say the least, to present the ɔt up by this bill. The letter of the Adjutant-General of the ɔ the Secretary of War, with reference to this bill, is appended le part of this report.

committee recommend that the bill do lie upon the table.

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ADJUTANT-GENERAL'S OFFICE, *January* 28, 1886.

have the honor to submit herewith a bill (H. R. 1009, Forty-ninth Congress, ɔn) for the relief of John A. Darling (now captain First Artillery), which was vith a letter of the 12th instant addressed to this office by the chairman of ıittee on Military Affairs, House of Representatives, together with a state- he military services of the officer named.

ıe passage of the act of Congress approved July 15, 1870, providing for the of the Army, Captain Darling was reported to the War Department by l. George Crook, Twenty-third Infantry (now brigadier-general), who had y commanded the department in which Captain Darling was serving, as an ɔse discharge would benefit the service, as he had shown himself incom- command, from want of character and honesty of purpose, had kept his ıd condition, and shown a want of discipline and shift.

While this report was not made the subject of official inquiry by the board appointed under section 11 of the act cited, owing to the remoteness of the officer's station and want of time, it established a doubt as to the wisdom of his retention while many worthy officers would necessarily have to be discharged in order to make the reduction required by the law; and he was, on January 1, 1871, with a great many other officers, against some of whom no allegation of unfitness for service had been made, transferred to the list of supernumeraries, and honorably mustered out of service under section 12 of said act.

By an act of Congress approved April 8, 1878, the President was authorized to nominate, and, on confirmation, to appoint Mr. Darling a captain of artillery, and to assign him to the first vacancy in that grade occurring in the artillery arm of the service.

He was nominated, confirmed, and commissioned accordingly, accepted the commission April 29, 1878, and has served continuously since that date.

The bill under consideration proposes to give Capt. John A. Darling, First Artillery, who was mustered out of service January 1, 1871, and reappointed in April, 1878, credit for time out of service [seven years] for longevity pay. Hence, if the bill becomes a law, the time Captain Darling was out of service will count in giving him increased pay—virtually giving him pay as an officer of the Army while not in the Army. Measures of this kind have always been opposed by the War Department, and by Congress, whenever their effect has been pointed out.

Very respectfully, your obedient servant,

R. C. DRUM,
*Adjutant-General.*

The Hon. SECRETARY OF WAR.

CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
t Session. } { No. 454.

# JAMES CAIN.

ARY 12, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

IELR, from the Committee on Military Affairs, submitted the following

## REPORT:

[To accompany bill H. R. 5552.]

Committee on Military Affairs, to whom was referred House bill reports back the same with a substitute therefor.

ppears from the records of the War Department and other evi- submitted that James Cain was duly mustered into the mounted e as captain on the 25th day of September, 1863, to date from mber 1, 1863. Nevertheless he was dismissed the service on Janu- 1864, as first lieutenant, an entirely anomalous proceeding. The are fully set forth in the communication addressed to the Sec- of War by General James Jourdan, who was colonel of Captain s regiment. The communication is submitted as a part of this re- and as confirmatory of the judgment of the committee in recom- ing the passage of the substitute for the bill.

WASHINGTON, D. C., *December* 11, 1885.

R SIR: I have the honor to state that Captain James Kane, late of the 158th ork Volunteers, of which regiment I was colonel, was well known to me as a t, intelligent, and faithful officer. During his service he unfortunately became ed in a difficulty with another officer of the same regiment, who was well for his offensive and quarrelsome disposition, which resulted in his trial and tion by a court-martial, and was sentenced to be dismissed from the service. ourt, however, together with the field officers of his regiment, recommended the favorable consideration of the commanding general (John G. Foster), by the sentence was remitted, and Captain Kane was honorably returned to duty his regiment. Subsequently he obtained a leave of absence to visit his home ooklyn, a privilege as a rule only accorded to meritorious officers; and as a of long service in an unhealthy section of North Carolina, after his return was taken sick with malarial fever, and in consequence thereof was unable to to duty at the expiration of his leave of absence, and did not return to his ent until eight days after the time designated, bringing with him a certificate family physician, stating the circumstances of his failure to report in con- y with the terms of his leave.

onsequence of an order issued by the then Department commander, Gen. B. F. , requiring all officers who might overstay their leave because of physical dis- r, to obtain a certificate stating the cause thereof from an Army surgeon, which omitted to do, he was again tried for absence without leave, and dismissed he service. As his regimental and subsequent brigade commander, I have no tion in saying, in neither of the foregoing cases did he intentionally or willfully ng, nor did he do more than many other officers have done without being sub- such severe if not unjust punishment. He was a popular and industrious ny commander, enjoying the respect of his brother officers.

I am informed that Captain Kane is about to apply to the honorable the Sec
War to have his case reopened, the sentence of dismissal remitted, and his res
accepted, in order that he may have this stain removed from his military rec
his late commanding officer in the field, I deem it but an act of justice to a
faithful officer who served under me, to certify to his patriotism, gallan
fidelity.

Very respectfully,

JAMES JOURDA
*Late Brevet Major-General, United States Vol*

To the honorable the SECRETARY OF WAR.

CONGRESS, Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 455.

# ROBERT P. CROWDER.

FEBRUARY 12, 1886.—Laid on the table and ordered to be printed.

). M. ANDERSON, from the Committee on Military Affairs, submitted the following

## REPORT:

[To accompany bill H. R. 2345.]

*Committee on Military Affairs, to whom was referred House bill* 2354, *submit the following report:*

hat in answer to an inquiry made of the Surgeon-General, United es Army, the following answer was received (hereto attached and e part hereof), to wit:

WAR DEPARTMENT, SURGEON-GENERAL'S OFFICE,
*Washington, D. C., February* 1, 1886.

: I have the honor to acknowledge the receipt of your letter of the 22d ultimo, sting a report of service of Robert P. Crowder as a medical officer with Third essee Mounted Infantry, from August 5, 1864, to close of war; and, in reply, to m you that there is no record at this office of the service of Dr. Crowder as a cal officer during the time mentioned. The Third Tennessee Mounted Infantry s three-months organization and was mustered out in November, 1864.

Very respectfully, your obedient servant,

R. MURRAY,
*Surgeon-General, United States Army.*

m. C. M. ANDERSON, M. C.,
*House of Representatives, Washington, D. C.*

hat while the statement of applicant tends to show that he acted as h surgeon, nowhere is any claim made that he did anything more n receive and take charge of medical stores; that there is no claim t he was qualified to discharge the duties of a surgeon, nor that he r performed such services. There is nothing showing that his duties e more onerous or required more skill than the ordinary private sol-

our committee beg leave to report the bill back with request that e not allowed, and that it do lie on the table.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 456.

# BOARD OF FIELD OFFICERS OF THE FOURTH BRIGADE, SOUTH CAROLINA VOLUNTEERS.

FEBRUARY 12, 1886.—Laid on the table and ordered to be printed.

Mr. FINDLAY, from the Committee on Military Affairs, submitted the following

## REPORT:

[To accompany bill H. R. 2212.]

*The Committee on Military Affairs, to whom was referred the bill (H. R. 2212) for the relief of the board of field officers of the Fourth Brigade of South Carolina Volunteers, have had the same under consideration, and submit the following report:*

The case has been before the Court of Claims, which has found the following state of facts:

Court of Claims. No. 12637.

*The board of field officers of the Fourth Brigade of South Carolina Volunteer State Troops v. The United States.*

FINDINGS OF FACTS.

This case having been heard before the Court of Claims, the court, upon the evidence, finds the facts to be as follows:

I.

The board of field officers of the Fourth Brigade of South Carolina Militia was a perpetual corporation created by the State of South Carolina in 1809. The said corporation was vested with power to purchase and hold land not exceeding 300 acres for the use of the militia in the parishes of Saint Philip and Saint Michael's.

On the 25th May, 1835, the said corporation became the owner by purchase of a parcel of land, with the building thereon, on Citadel Green, in the city of Charleston, known as the Picquet Guard-House, and on the 1st August, 1856, of another parcel of land with a building thereon, known as the Boylston House, in the city of Charleston.

II.

When the rebellion broke out the Confederate forces took possession of the premises and continued their occupancy for war purposes until they evacuated Charleston in February, 1865. The United States troops then took possession of the premises and turned them over to the Bureau of Refugees, Freedmen, and Abandoned Lands. In October, 1865, that Bureau surrendered them to the city of Charleston, and Charleston in turn delivered them to the claimant.

Whether the officers of the claimant consented to the occupancy of the premises by the Confederate forces does not appear. They were themselves actively engaged in the rebellion.

III.

August 20, 1867, the United States forces again took possession of the Picquet Guar House and of the Boylston House, and occupied the former until November 1, 18 and the latter until April 1, 1879.

For this occupancy the United States paid rent to the city of Charleston until Ju 1, 1868; for the Picquet Guard-House at the rate of $50 a month, and for the Boy ton House at the rate of $92 a month.

Since July 1, 1868, no rent has been paid to the claimant, and no express lease a pears to have been made.

The rate of rent paid prior to July 1, 1868, would be a reasonable compensation f the use of the buildings subsequent to that date.

IV.

On the 8th June, 1877, the board of field officers of the Fourth Brigade of Sou Carolina Volunteer State Troops was created a corporation by the State of Sou Carolina and vested with the rights, franchises, and property of the board of fie officers of the fourth brigade.

Upon this finding of facts the court deduced the conclusion that tl claimants were entitled to be paid for the use and occupation of the sa buildings for all the period of the occupancy not barred by the statu of limitations, and awarded the sum of $5,347.79. For the sum cover by limitations and disallowed on this account by the court the claiman now make application by this bill, and the question is whether there any equity upon the face of the papers or arising out of the circu stances of the case which should induce Congress to rescue the clai from the bar of the statute. The committee can see none, and repo the bill back with a recommendation that it do not pass.

ɔNGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
ession. } { No. 457.

# STEPHEN GARDNER.

r 12, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

ANS, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 1184.]

*mittee on Invalid Pensions, to whom was referred the bill (H. R. ranting a pension to Stephen Gardner, submit the following report:*

Stephen Gardner was mustered into the service March 20, 1864, ɪany D, Tenth Regiment Michigan Infantry, and was discharged lose of the war, July 19, 1865. He applied for a pension March , alleging hernia, caused by a fall and being run over during e in the battle of Jonesborough, Ga., September 1, 1864. His as rejected on the ground of no record of rupture and no satis- proof of incurrence in the service.

Stockwell, ex-surgeon, certifies May 10, 1875, that he exam- ɪrdner and finds "double inguinal hernia—right very large, far down in scrotum."

roof as to incurrence is two comrades, John D. McKenzie, who saw him fall and afterwards procured him a truss, and George s, who remembers hearing Gardner complain of being hurt, and nrade procuring a truss for him.

y Wideman, late captain of Company D, states that claimant ı he had procured a truss for his rupture, and that he received lling in a ditch September 1, 1864.

case was referred for special examination, during which two wit- estified they had been informed Gardner had hernia at the time ted. For this reason, and because there was no record evidence, m was rejected.

estimony of Dr. Miles Huckins shows that Gardner was suffer- n a rupture on his return home from the Army.

all the evidence in this case your committee are inclined to be- ıe incurrence of hernia was as stated by Gardner. He served ly from enlistment to close of the war. He was no bounty- and had no reason to conceal any disability existing at time of ent.

xamination at time of muster disclosed no disability. He could d no thought of laying the foundation of a pension at the time he was hurt. He shirked no service by going to hospital, but ıe best effort he could and as little complaint, and kept in line , with no thought of pension or reward till increasing disability ed him, ten years after discharge, to ask relief by pension. His ty at close of war and since is not disputed or in doubt.

ıerefore recommend the passage of the bill.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 458.

# MRS. ANN J. CONWELL.

FEBRUARY 12, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. LOVERING, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 3177.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3177) granting a pension to Ann J. Conwell, submit the following report:*

Ann J. Conwell is the widow of Mathew Conwell, late a private in Company I, First Indiana Cavalry. She asks to be placed upon the pension-roll as his widow. The facts in the case, substantiated by affidavit, are peculiar, inasmuch as she appears as the widow of two soldiers, one of whom gave up his life in service; the other, disabled by wound and disease.

The facts are as follows: Her first marriage was with one Edward Blumely, at Willimantic, Conn., upon the 26th of November, 1855. On the 1st of October, 1861, he enlisted as a private in Company D, Eighth Connecticut Volunteers, and re-enlisted as a veteran at the expiration of his term of service. On October 6, 1864, he died in Andersonville prison, leaving the beneficiary in this bill with three small children to provide for. She applied for and obtained a widow's pension, and struggled along as best she could with the aid of the pension to clothe and feed herself and children. Finding herself unable to properly care for and bring up her family, on January 5, 1867, she married Mathew Conwell, a pensioned soldier, who, though at that time suffering from a wound and from other disabilities, was by superior skill at his trade, that of "spring fitter," able to earn good wages.

He had served as a private soldier in the First Indiana Cavalry, and was pensioned upon certificate 39980, first for $2 and afterwards at $4 per month. As time went on his disabilities increased, and finally, in 1877, he was admitted as an inmate of the Soldiers' Home at Dayton, Ohio, suffering from his gunshot wound of shoulder, asthma, and heart disease, of which disease he finally died, and which he always claimed he contracted in the service. The death occurred March 30, 1882, at the Soldiers' Home aforementioned. The certificate of death gives the cause. "organic disease of the heart."

Her claim was rejected for the reason that the disease of which soldier died was not due to his military service. This widow is old, infirm, and poor. She believes she ought to be entitled to be placed upon the roll, when the circumstances of her earlier struggles and bereavements are considered.

Your committee are of opinion that this is a proper case for relief, and would therefore recommend the passage of the accompanying bill.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 459.

# ALONZO MAYNARD.

FEBRUARY 12, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. LOVERING, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 3478.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3478) to increase the pension of Alonzo Maynard, submit the following report:*

Alonzo Maynard enlisted in Company I, Eleventh Connecticut Volunteers, and was discharged March 25, 1863, for gunshot wound received at Antietam. He applied for and received a pension on certificate 18040, October 6, 1863, at the rate of $8 per month, which has been increased from time to time until June 4, 1872, he was rated $31.25, which he received until March 15, 1884, when, upon application for increase, it was rejected, and under order No. 35 he was reduced to $30 per month, the reason being given that the disability from which he was rendered helpless, requiring aid and attention, was rheumatism, a disability not proved.

The evidence in this case discloses that the man has suffered terribly ever since discharge from the gunshot wound to right lung, which injured his spine and resulted in total incapacity for any manual labor.

E. F. Parsons, of Enfield, Conn., practicing physician, testifies he has treated claimant at different times during the past five years (1879 to 1884; that he is suffering from deformity and disability, resulting from his wounds, from rheumatism, making his right arm nearly helpless; that the diminution of aerating surface in the lungs from loss of lung tissue causes great dyspnœa on exercise, which, together with rheumatism of his legs and feet, cripples him to that extent he can walk only a few rods at a time; that his disabilities render him practically helpless.

Drs. Jarvis and Fuller, examining surgeons at Hartford, say:

Two balls entered near the right side of the spinal column, at the third dorsal vertebra. There are four deep cicatrices in this region, covering a space perpendicularly of 6 inches by 4 horizontally. There are four cicatrices between the clavicle and scapula. In front, right side, there is one large cicatrix on the point of the shoulder, one directly above and one below the inner half of the clavicle, one just to the inner side of the mamma, and one just below the nipple, causing much contraction of the mammary gland. The lung was apparently riddled; soldier says he was hit with bullet and buckshot.

R. Strickland, Enfield, Conn., examining surgeon, says, Septe 11, 1883:

What remains of right lung of little use for purpose of respiration; dullness o cussion over whole lung; left lung nearly sound; right arm nearly useless fro tensive caries and loss of bone of shoulder, following the wound. Left arm h use only in a very limited degree, resulting from wound; rheumatism. His dribbles from him, being unable to retain it. Has a cough, which at times is troublesome; yet with all these symptoms he is fat and eats well. He appears n helpless and demands the regular aid of another person.

J. R. Lewis, examining surgeon, Rockville, Conn., October 2, 1 says:

The track of the wound involves the upper right lung, and has resulted in sup tion and absorption of the greater portion of said lung; the upper and lower ext ties have become dropsical, and the patient is helpless, or so nearly as to requir constant personal aid and attendance of another person. Large burrowing abs frequently form upon the chest.

Photographs exhibited to the committee of this soldier show breast and back views, both of which are covered with deep and scars. The right shoulder is apparently several inches lower than left, and the soldier is drawn out of shape.

Your committee, after a careful consideration of all the evidenc the case, which is mostly professional, are of the opinion the ratin this pensioner should be advanced. They would therefore recom the passage of the accompanying bill as amended by substituting word "forty," in the seventh line, for the word "fifty."

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 460.

# AUGUSTA M. RICHARDS.

FEBRUARY 12, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. LOVERING, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 1107.]

*The Committee on Invalid Pensions, to whom was referred House bill* 1107, *beg leave to submit the following report :*

Mrs. Augusta M. Richards, of Malden, Mass., was a volunteer nurse in the hospitals of New Orleans after its capture by the Union forces. Mrs. Richards went to New Orleans from the North early in 1861, and taught a private school for young ladies. From the opening of the port by Admiral Farragut, or as soon thereafter as the Saint James and Saint Louis hospitals were established, her duties began, first by spending all the spare hours at her disposal, before and after school, in every kind of service in her power to render, to alleviate the suffering of the sick and wounded soldiers, many times furnishing food from her own home to those who seemed to need something more delicate and palatable than the hospitals afforded. During these ministrations she was stricken down with small-pox contracted in Saint James hospital. At this time she had a prosperous school, which yielded her about $150 per month, while her daughter, who was with her, had a class of young ladies in music, whom she visited daily, which business was, by reason of the contagious disease, entirely ruined and permanently broken up, thus cutting off their means of support. This occurred in April, 1864. Upon her recovery she resumed her work in the hospital, remaining in it until the close of the war in 1865.

She presents much evidence to corroborate the statements above made, from soldiers whom she had nursed and cared for; from doctors as to her incurrence of small-pox while engaged in the duties claimed.

The following, from Dr. S. H. Orton, in charge Saint James Hospital:

McDOUGAL U. S. A. HOSPITAL (near Fort Schuyler, N. Y. H.),
*September* 11, 1865.

This will certify that Mrs. Augusta M. Richards contracted small-pox while attending the sick and wounded of the Union troops at the Saint James United States Army Hospital at New Orleans in May, 1864, and was under my professional charge during her sickness, which was attended with great danger and pecuniary loss, she having been deprived of all of her pupils through fear of contagion.

Mrs. Richards will ever be remembered by me as having been of the greatest service in assisting the sick by every means in her power.

SAMUEL HENRY ORTON,
*Brevet Major and Assistant Surgeon, United States Army, Commanding, Formerly in charge of Saint James United States Army Hospital, New Orleans.*

That General Banks, then in command of the Department, thoug highly of her services is shown by the following safeguard order:

HEADQUARTERS DEPARTMENT OF THE GULF OF NEW ORLEANS,
*September* 9, 186

Mrs. Richards, 109 Coliseum street, has devoted her time and exposed her lif assisting the sick and wounded men of the Army.

She pays rent for the house she occupies to the Treasury agent. She is a thorong loyal woman, to whom the Government is indebted, both for her assistance and sacrifices, and will not be disturbed without orders from these headquarters.

N. P. BANKS,
*Major-General, Commanding*

More and specific evidence might be given to strengthen this case necessary, but it would seem that sufficient has been adduced to sh that this lady gave her services freely until prostrated by a dread d ease; that upon recovery, even though her means of support was go she went on with her work until the last gun was fired in the great c test. For all this disinterested, noble, and self-sacrificing work s never received a dollar of pay from the Government. She is a wido Since the war she has been supported by her son, a resident of N Orleans; but reverses in business have overtaken him recently and c short her means for support. She has no property or income, and is the age of 72 left without means of support.

You committee are of opinion that this lady through her services a sacrifices has richly earned the right to the relief she asks for the f remaining years of her life. They therefore recommend the passage the accompanying bill.

C

CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 461.

# ABBY L. BURBANK.

FEBRUARY 12, 1886.—Laid on the table and ordered to be printed.

LOVERING, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 1089.]

*Committee on Invalid Pensions, to whom was referred the bill H. R.* 1089, *beg leave to submit the following report:*

The beneficiary in this bill is in receipt of a pension of $25 per month, hich your committtee find is commensurate with his rank. She asks r an increase to $50 a month. It has been the invariable rule of the mmittee to confine this action to the grades of general officers in the rmy and Navy.

Your committee, therefore, ask to be discharged from the further nsideration of the bill, and ask that the same do lie upon the table.

O

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 462.

# THOMAS G. NEWMAN.

RY 12, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

ORRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 1367.]

*mmittee on Invalid Pensions, to whom was referred the bill (H. R. ) to place the name of Thomas G. Newman on the pension-roll, sub- the following report:*

find that claimant enlisted April 23, 1863, in Company K, Ninth ıri State Militia, and was discharged May 29, 1865. He had the year preceding in Companies A and E, Forty sixth Missouri Militia. He filed an application for pension March, 1883, alleging isease and sciatica rheumatism, which was rejected on the ground ecord and no evidence of origin and no medical evidence since. is no record, for the very good reason that the hospital records t on file. Claimant states that he sent Fitzgerald & Co. an ap- on for a pension in 1877, and supposed they had filed it. He r states—

in April, 1865, while stationed at Sturgeon, Mo., word came in that a lot of as were between said camp and Columbia, and that Captain Cook, of Company after them, and that they could join him at a certain point. A detail of nen was made, claimant being one of the men. Left camp about 1 p. m. Sun- n hour later it commenced raining, gently at first, but it increased until it got steady pour, and it so continued until 4 o'clock p. m. next day. About dark evening they joined Captain Cook, and the whole command were in the sad- il 3 o'clock the next morning. Then took a rest, using their saddles for pillows their heads out of water. Claimant was placed in charge of seven men by ant Hawkins, with orders to run down the guerrillas. They rode until about ck a. m., when they discovered four men on the other side of a stream. They ne another; when the four men fired and retreated. They followed them miles and then returned to Sturgeon, after nearly a continuous ride of twenty- urs, and from that time he was never able for any kind of duty. He applied ırlough, and, receiving it, went to Macon City, Mo., where the regimental arters then were, where he met Dr. A. B. Castle, assistant surgeon of his regi-

Castle corroborates the above, in the following language, given oath:

re the following statement to make from memoranda in my possession: Early il, 1865, claimant was exposed to wet and cold while on a scout in Boone r, Missouri, and pneumonia resulted therefrom. He made a bad recovery—that ungs were seriously impaired, and he suffered from sciatic rheumatism, so that s he could only walk with the aid of sticks. His health seemed utterly broken. s examined by myself and Surgeon J. H. Peabody, U. S. A., on the 26th of May, nd immediately ordered to Saint Louis for muster-out. Newman was walking cane in a bent condition, complaining of rheumatism of the back and hips, and *chronic bronchitis, which we then thought incurable. We apprehended the of tubercular phthisis in the near future.*

John Jones and Philip Liley testified that he has not since been an able-bodied man.

Claimant testifies that he was treated by Dr. Smith, now dead, in 1865, and by Dr. Dedman, who is also dead in 1872.

H. J. Bates says he has known him imtimately since 1875, and that he has seemed to be laboring under some disease of the lungs, and rheumatism.

W. C. Harlen and David Galloday testify that for several years they have filled perscriptions for claimant for pulmonary diseases.

The postmaster at Gun City says he has known him since 1871; that he was not then an able-bodied man, and has not improved since. The board of pension-examining surgeons, at Kansas City, report him, May 16, 1883, totally disabled from lung disease and rheumatism.

The testimony of Dr. Castle, so clear and positive, and whose reputation is vouched for as good, ought to establish the origin of the disease in the service. If the testimony of Drs. Smith and Dedman could be obtained it would establish continuance; as it is, your committee are forced, from the evidence before them, to the conclusion that the soldier lost his health in the military service; that his disabilities have continued ever since, and that his present condition is the result of that service. They therefore recommend the passage of the bill.

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
ession. } { No. 463.

# MARGARET A. CASWELL.

RY 12, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

AWYER, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 1634.]

*mmittee on Invalid Pensions, to whom was referred House bill* 1634, *beg leave to submit the following report:*

in the Forty-eighth Congress, a bill similar to this was intro- and referred to the Committee on Invalid Pensions, who made eport hereto annexed. The bill passed the House, but was not d in the Senate.

n an examination of the case this committee adopt the said report r own in this case and recommend that the bill pass.

*mittee on Invalid Pensions, to whom was referred bill H. R.* 2473, *ask leave to submit the following report:*

etitioner is the widow of Egbert H. Caswell, whose certificate of discharge hat he enlisted in the service of the United States, in the late war, on the 15th une, 1861, for two years, in Company K, Thirty-fourth Regiment New York ers, and that he was discharged March 21, 1863, at Philadelphia, Pa. The 's certificate pronounces one of his disabilities to be a fracture of the tibia n duty at Bolivar Heights, by falling from a stone wall while engaged in r water for his company. The ankle frequently swelled and was at times inful after walking or standing. At Fair Oaks, Va., May 31, 1862, he received in battle still more serious. J. J. Woodward, United States Army surgeon, that at this time Caswell was disabled by a gunshot wound in the left leg, in the right thigh, and that he was rendered deaf in the right ear by f the bursting of a shell near that organ. He was forced to use crutches for months after his discharge. He also received a bayonet thrust through the his right hand.

is several wounds he was treated in hospitals at Philadelphia and Wash- was reported by his physicians as having partial paralysis of the leg, and died, finally, from softening of the brain. It is a fair inference that this as superinduced by exposure in the service and wounds received, but more from the bursting of the shell, which may have caused concussion of the Your committee are of the opinion that he died from the causes before stated, traceable to his service, and think his widow should receive some aid from ernment in the form of a pension, and therefore recommend the passage of bill 73.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 464.

# SARAH B. JACKSON.

FEBRUARY 12, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SAWYER, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 1635.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1635) for the relief of Sarah B. Jackson, submit the following report:*

That in the Forty-eighth Congress a bill for the relief of Mrs. Jackson was introduced into the House, referred to the Committee on Invalid Pensions, who made their report (which is hereto annexed), and the bill passed the House.

The bill then went to the Senate, and was referred to the Committee on Pensions, who made a favorable report February 6, 1885, but it was so late that the bill was not reached or passed. Their report is also hereto annexed.

From an examination of the case, the committee believe it to be meritorious, and adopt said reports as their own, and recommend the passage of the bill.

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[House Report No. 1170, Forty-eighth Congress, first session.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5800) for the relief of Sarah B. Jackson, having considered the same, make the following report:*

The petitioner alleges that her husband lost his life by falling from a railroad bridge while attacked with dizziness, resulting from serious wounds received in battle in the service of the United States. It is in evidence that the soldier had his lower jaw shot away in the battle of Hatcher's Run, Va., March 31, 1865. He was discharged because of this wound. The disability was rated total, for which he was receiving at time of death a pension of $8 per month. The records show that he enlisted September 1, 1864, and was mustered in the next day as a private in Company A, Ninety-first Regiment New York Heavy Artillery Volunteers; was discharged July 27, 1865, and died September 18, 1865, up to which time he received his pension, application having been filed in August. His family, therefore, derived but little good from the pension, his death occurring soon after its allowance. The widow did not apply for pension until March 12, 1877, but it was rejected because "the injury to spine by a fall was not caused by or dependent upon wounds received in the service of the United States."

The widow's affidavit gives the reason for delaying her applications for pension, as well as other facts pertinent to the case. It is as follows: That her late husband, the soldier above mentioned, was a pensioner of the United States; that he returned from the Army to their home in July, 1865, suffering from a severe wound of face, destroying the lower jaw; that, although said wound was healed over, it was very distressing, causing darting pains from the jaw to the top of the head and almost con-

tinual suffering; that owing to said wound her said husband could not eat any solid food, and in consequence she had to prepare for him and feed him with liquids from a spoon; that her said husband was before enlistment a sound, healthy man, and was not subject to fainting spells, but after his return he did at several times become unconscious and faint; said faintness was caused, as she verily believes, by the wound aforesaid and the lack of nourishment which said wound prevented him from receiving.

Deponent further says that owing to this disfigurement of face and the consequent affection of his speech, her said husband was loth to be seen upon the street or spoken to, and therefore rarely went out of the house except to attend his church or prayer meeting. That about 2 o'clock on Sunday afternoon on or about 17th of September 1865, her said husband on his way to prayer meeting was taken with one of his fainting spells, and fell from a bridge, which fall, as she verily believes, so affected his brain and other parts in sympathy with the wound of face that he was not able to rally from the additional injuries inflicted, and that his death in a few hours subsequently, viz, at 8 o'clock next morning, was entirely attributable to the wound for which her husband was pensioned.

She further states that neither she nor any of her friends were thus advised of her rights in the premises, and even if she had been, her mental condition of distress would not have enabled her at that time to have considered them; that it was only at the late date, when her condition of need suggested to her mind by friends her rights to a pension, that she sought for the evidence requisite.

She further states that the railroad bridge from which her husband fell crossed the Mohawk River at Cohoes; that said bridge was 25 feet wide and 800 feet long and 60 feet to the bed of the river. There was on each side of the railroad track a walk about 9 feet in width. These walks were habitually used by pedestrians (as also by her husband before as well as after enlistment, on his way to and from the church) who had occasion to cross the river.

Thomas Fitzgerald testifies that he knew William B. Jackson, the deceased soldier herein referred to, since the year 1855; that he knew said soldier intimately when he entered the Army, and saw him when he returned from the Army, and frequently thereafter until his death, which occurred about September, 1865.

Deponent states of his personal knowledge that said soldier was not subject to fits or fainting spells before enlistment, and that his bodily health was good.

Deponent further states that after return from the Army, and until his death, the soldier was subject to fainting spells, which were evidently caused by the wound from which the soldier suffered, the whole lower jaw being shot away and his condition being very much debilitated.

Matthew C. Cook testifies that he knew the deceased soldier, William B. Jackson, referred to. He saw him fall from the bridge across the Mohawk River at Cohoes. Said bridge was a common thoroughfare, and was used by said Jackson habitually on his way to prayer-meeting, and was so being used when he fell. He helped to pick said Jackson up, and saw that he was badly hurt. He stated to him that he was taken with a dizziness which caused his fall. He has been told by said Jackson's wife and others that his wound caused him to be faint at times, and he believes said wound received in the Army was the cause of the dizziness producing the fall, and of which he subsequently died.

Your committee verily believe that the wound received in the service was the true causation of the soldier's death. The evidence that he was a sound man, and not subject to dizziness prior to enlistment, and that subsequent to receiving his wound he was frequently attacked with vertigo and frequently fell, is amply proven. He was an honest, upright, sober man, and it is not difficult to conclude that his death is referable to his Army disability. Believing this, the committee recommend the passage of the bill.

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[Senate Report No. 1183, Forty-eighth Congress, second session.]

*The Committee on Pensions, to whom was referred the bill (H. R. 5800) granting a pension to Sarah B. Jackson, have examined the same, and report:*

The facts in this case are set forth in the report of the Committee on Invalid Pensions of the House of Representatives (H. R. Report No. 1170), made during the last session, as follows: [See House report immediately preceding.]

It appears by affidavit made in 1880 that both of the physicians who attended the claimant's husband after his fall were dead at that time, so that no further or explanatory evidence could be obtained from them.

Upon appeal in 1880 the case was rejected on the ground that the evidence did not

nclusively" that the deceased was subject to fits, or if he was that they were
:he result of his wound.
, Scott swears she saw deceased when he fell from the bridge; "that just
ing said Jackson reeled or staggered as though suffering from dizziness or
hat he tried to recover himself, and then fell from said bridge, which caused
"

Van Steenberg, the surgeon who attended deceased, swears that Jackson,
ving said wound, was subject to attacks of vertigo, causing blindness and
that he verily believes said wound was the direct and immediate cause of
:ks of vertigo and blindness and fainting, and the cause of the accident
ulted in death. In a second affidavit he swears he attended Jackson till he
t Jackson told him that from the time of his injury he had "fainting fits,"
s in one of these that he fell; "that Jackson said these fits were caused by
l, and to the best of my knowledge they were."
re papers in the case to show that Dr. Van Steenberg's moral and profes-
nding is good.
A. Waldron, who buried the deceased, says, in a letter of November 17,

llect his coming back from the war in a disabled condition, *subject to fainting*
. which was the cause of his falling from the bridge. There is no question
ralidity of the widow's claim."
nsten, the postmaster at Cohoes, has written several letters stating the facts,
before enlistment he was a sound, healthy man, but after he came back he
*t to fainting fits* and loss of memory."
:

rell known by those best acquainted with Jackson that his illness, which oc-
what resembled epileptic fits (in one of which he fell from the bridge, receiv-
es from which he died), was the direct result of his wound. I have not the
ersonal interest in the matter, but think a great injustice has been done a
hy and conscientious widow, who is poor and deserving of a pension, con-
he circumstances of her husband's death."
ı died about six weeks after his discharge.
of this evidence, and all the circumstances in the case, your committee con-
report of the House committee, and recommend the passage of the bill.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 465.

# SAMUEL F. GARRETT.

FEBRUARY 12, 1886.—Committed to the Committee on the Whole House and ordered to be printed.

Mr. ELLSBERRY, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 1840.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1840) for the relief of Samuel F. Garrett, having considered the same, beg leave to submit the following favorable report:*

Claimant enlisted July 4, 1861, in Company I, Thirty-ninth Ohio Volunteer Infantry, and served until July 9, 1865, when he was honorably discharged. He applied for pension November 3, 1879, alleging that he was disabled by reason of having contracted chronic diarrhea and inflammatory sore eyes while in the line of duty by reason of exposure and hard service.

His claim was rejected January 12, 1884. The proof is clear and strong that he was and is greatly disabled. Dr. Stableton, who was his father's family physician, testifies that before enlistment he was a sound, healthy young man, free from disease of any kind. The records of the War Department show that he was treated for his alleged disabilities while in the service in Government hospitals.

His officers and comrades testify to his having chronic diarrhea in November, 1861, and sore eyes in 1863, and that he never recovered from either disability during his service. His neighbors, who have known him from boyhood, testify to the continuance of the diseases from the time of discharge, in 1865, up to the present. Drs. Grinnell, Graham, Stephenson, and Connell, skillful and reputable physicians, bear positive testimony to his disabled condition from the causes alleged.

Notwithstanding the rejection of this claim by the Department, the Department examiner, R. G. Charles, recommended its allowance in the following words:

> From my examination of all the evidence in this case, I am of the opinion that the claim should be admitted for chronic diarrhea and inflammation of eyes. I think that claimant has been disabled for performing manual labor during the years from 1863 to 1882, in degree one-half.

All of the witnesses testifying in support of the claim are of the highest character and best standing, and all of them have lived in the same community with the claimant since his birth.

In view of all the facts presented, the committee recommend that the bill do pass.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 466.

# JAMES L. McCLAREN.

FEBRUARY 12, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ELLSBERRY, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 1943.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1943) for the relief of James L. McClaren, having considered the same and accompanying papers, submit the following report:*

The claimant, James L. McClaren, late a private of Company H, Twenty-third Regiment Ohio Volunteers, filed his application for pension June 16, 1877, alleging disability to left hip and side by a fall from a horse in May or June, 1861.

The records in the Adjutant-General's office show that said McClaren was enrolled on the 30th of May, 1861, at Columbus, Ohio, in Company H, Twenty-third Regiment Ohio Volunteers, to serve three years or during the war, and mustered into service on that day at Camp Jackson. He was discharged September 20, 1861, for disability.

Capt. James L. Drake and numerous other witnesses testify to the circumstances under which claimant received the injuries mention The witnesses all concur in the statement that prior to and at the time the injuries were received the company was in camp at Loudonville, Ashland County, Ohio, under orders to be mustered into service, and the said James L. McClaren, in company with Christopher Shank, another member of said company, was ordered by Capt. James L. Drake to go to Napoleon, Holmes County, Ohio, and bring back to Loudonville certain members of the company who had gone home on temporary leave of absence, and while on the road to Napoleon, in the line of duty, and without any fault on his part, he was thrown from his horse, receiving the injuries of his left side and hip, from which he suffered constantly, and on account of which he was discharged for disability in September, 1861.

Christopher Shank testifies that he was with McClaren by order of Captain Drake; saw him receive the injury, helped to take care of him, and was with him till his discharge.

Numerous witnesses testify that said McClaren was sound and able-bodied at the time of enlistment, and that the injuries are of a permanent nature, from which the claimant still continues to suffer.

P. H. Clarke, M. D., examining surgeon, certifies to the disability, and then says:

He is able to labor but a portion of the time. I rate his disability at three-fourths' (¾) or $6 per month.

A. V. Patterson, M. D., another examining surgeon, certifies to the disability, and then says:

In my opinion the said James L. McClaren is one-half (½) of total, $4 per month; incapacitated for obtaining his subsistence by manual labor.

The claim was rejected on the record and claimant's statements as to time and place of receiving said injury, the statements of the witnesses fixing the time of injury in May, 1861, and the records show him as enlisted May 30, 1861.

There is no conflict in the evidence as to the nature or extent of the injury or the place and circumstances under which it was received. It is not pretended that claimant did not receive the injury as described, but the discrepancy as to time in the testimony of claimant is seized upon as the only ground upon which his claim could be rejected.

Your committee think that it is evident from all the testimony in this case that the injuries received, and from which the claimant has suffered so long, were received in the line of duty, and therefore recommend the passage of the accompanying bill.

NGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
ssion. } { No. 467.

# D. P. SIMMONS.

r 12, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

PE, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 2159.]

*mittee on Invalid Pensions, to whom was referred the bill (H. R. for the relief of D. P. Simmons, submit the following report:*

d P. Simmons, private Company F, Eighty-first Regiment Penn- Volunteers, was enrolled September 1, 1864, and mustered out 1865. He claims a pension for alleged rheumatism and heart ontracted in the service and in the line of duty.

laim was rejected October 8, 1885, on the ground of "there record and no medical evidence showing the existence of said ies in the service or since discharged. The board of examining fails to find any disability at the present time. As the alleged are obscure in their character, the lay testimony filed is not ed competent to establish the claim."

laimant alleges that he contracted his rheumatism and heart rom heavy lifting and exposure in front of Petersburg, and says s unable to furnish the testimony of his regimental surgeon, condition was such before going to hospital that he did not know he was treated or not"; and he also alleges that he "does not e whereabouts of any commissioned officer of his company." states that Dr. Graham informs him that he was not with the t when he contracted his disability, and Dr. Yorris has been ee or four years. Dr. Fitch, the only physician who has treated e his discharge, has moved away, and he does not know his where- has used patent medicines, and has been treated by his mother discharge. The record in the Surgeon-General's Office is, that was admitted to the hospital October 20, 1864, the diagnosis alarial fever; that he was admitted to depot field hospital Octo- 1864, with diarrhea, and transferred November 6, 1864; that he itted to Campbell general hospital, Washington, D. C., Novem- 864, with remittent fever, and returned to duty November 22, o further record nor evidence of treatment found.

ant states that he was detailed to cut and carry logs to build orks in front of Petersburg, Va., where he contracted rheuma- l heart disease, and that he was frequently excused from duty n of said diseases, with which he has continued to be troubled ce.

F. M. F. Simmons, the claimant's brother, testifies to the same facts, and says that his brother was taken sick with a pain through his shoulders and heart, and affiant left him in a critical condition at "Plough Barracks." After his return from the regiment he received a letter from him stating that he was unable to do duty, and that he has been failing ever since his discharge. It is stated that this witness's "standing is not first class."

Moses Smith, private Company F, Eighty-first Pennsylvania Volunteers, testifies that claimant contracted rheumatism and heart disease about the middle of October, 1864, from exposure and overexertion. Claimant contracted inflammation of lungs, was taken away from the regiment, and did not return for a month; when he did return was hardly able to do duty, from rheumatism and heart disease. In later evidence he repeats the above statements substantially. I. Johnson and Richard Campbell testify that they knew claimant intimately for twenty-five years before enlistment, and that he was free from rheumatism and heart disease; also, that since his discharge claimant's health has been broken, he is frequently unwell, and unable to work, in consequence of said disease.

Two neighbors testify to having lived near him since 1871 and 1872, and that he often complained of rheumatism and heart disease, and also that he has been disabled one-half the time from said diseases.

Salome A. Simmons, who is the claimant's mother, and who states that she has had experience as a nurse and "doctor" for a good many years, states that when he returned from the Army in June, 1865, he was broken in health from rheumatism and heart disease; has had frequent dizzy spells, and pain in his side, and when he "overworked his back would swell in a ridge on the left side of the spine; he has constantly grown worse since his discharge; for a large part of the time has been unable to do any hard work, and is sometimes totally disabled."

Five other parties testified to claimant's being unable to work one-half of the time, and for last two years has been unable to perform any manual labor.

S. D. Freeman, M. D., examining surgeon, testifies that this man has had pleuritis and pericarditis, with effusion of fluid in left pleural cavity; the apex of his heart pulsates four inches to the right of its normal position; pulse is one hundred and unsteady; repiration hurried; has the peculiar look of his disease. He rates his disability at one-half. This examination was made July 28, 1881.

E. G. Brown, examining surgeon, July 11, 1883, testifies that after looking him over thoroughly he concluded that he is a subject of a mild intercostal neuralgia. There is tenderness at vertebral point in sixth and seventh intercostal spaces; can discover no organic effects of anything of rheumatic character about joints, tendons, or muscles; can discover no indication of heart trouble in form of murmurs or otherwise. The intercostal neuralgia may produce some annoyance and possibly a slight disability for manual labor, though he thinks it is hardly of a pensionable character.

The evidence in this case is conflicting. The hospital records show that claimant was treated for malarial fever, diarrhea, and remittent fever; his brother says that he was taken violently ill from over exertion, and a comrade (not of the best character for veracity) testifies to the same; his mother, who claims to be a "doctor," testifies to the existence of rheumatism and heart disease; one examining surgeon, under date of July 28, 1881, describes minutely his heart affection, and another,

rs later, says he could detect no symptoms of heart disease and
s of rheumatism, and says it was intercostal neuralgia.
hardly probable that Mrs. Simmons, with no medical training,
agnose an obscure affection of the heart correctly, but adding
imony as to the outward and visible symptoms to the expert
ay of Dr. Freeman, who gives a very minute diagnosis of the
ar committee incline to the opinion that the claimant is en-
the benefits of the pension law, and they therefore recommend
ief be afforded him and that the bill do pass.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 468

# H. C. NICHOLS.

FEBRUARY 12, 1886.—Laid on the table and ordered to be printed.

Mr. HAYNES, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4399.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4399) granting a pension to Capt. H. C. Nichols, submit the following report:*

Henry C. Nichols served in the three months' troops as private of Company H, First Regiment Vermont Volunteers; subsequently enrolled for three years as sergeant Company F, Eighth Vermont Volunteers, from which he was discharged in October, 1863, for promotion to first lieutenant Seventy-third United States Colored Troops; was promoted to captain; mustered out of service to date October 14, 1865.

He filed a claim for pension October 1, 1884, which was rejected on account of no record and his inability to furnish any evidence of origin in service, or any medical testimony in service or at date of his discharge, showing him to have had or suffered with malaria.

Claimant alleges that while at Pontchaoula, La., August or September, 1865, he contracted malaria by reason of exposure and hard marching while in the line of duty; that he is unable to furnish the testimony of officers or comrades, not having heard of his lieutenant since the war, and the company consisting of colored men who are scattered beyond his knowledge; that he was treated in service by Dr. Charles Moore, a contract surgeon, whose present whereabouts he does not know; that he has had malaria ever since his discharge, but the physicians who treated him at discharge are dead, and he has treated himself much of the time with quinine; that he could furnish the testimony of neighbors, but has not the means to go to them; that he was sound when he entered the service, and has been in no place since his discharge where he could contract malaria.

The Newport (Vt.) examining board of surgeons, by whom he was examined December 3, 1884, found disabilities caused by malaria, which in their opinion would entitle him to a one-half total rating.

Beside his own statement there are but two affidavits filed in support of his claim.

Daniel Fosburgh, of Rutland, Vt., first met him in 1872; was his family physician for a time, and knew he was troubled with chills and fever, but did not treat him, as he was doctoring himself with quinine which he (Fosburgh) considered the best thing he could do. Has not seen Nichols much within the last nine years.

Charles F. Branch, of Coventry, Vt., has known and treated the last four years for malaria, prescribing for him frequently, f months nearly every week.

The committee are disposed to make generous allowance for tl difficulties which the nature of his service would entail in secu dence of comrades as to incurrence of disease, but it cannot ig total absence of any evidence at all from his discharge in 1865 The lack of evidence in the service should be compensated b and conclusive proofs of prior soundness and of disability at a discharge. This committee cannot recommend a pension on tl ment of a claimant that he contracted a disease in the service, su only by evidence of its existence seven years after.

We therefore report the bill back to the House, and recomm it lie upon the table.

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TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 469.

# SUSAN WOOLLEY.

RUARY 12, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

R. MATSON, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 443.]

*e Committee on Invalid Pensions, to whom was referred the bill (H. R. 443) granting a pension to Susan Woolley, submit the following report:*

A bill for the relief of this claimant was favorably reported by this ommittee and passed by the House in the Forty-eighth Congress, but iled of consideration in the Senate. Your committee adopt the printed eport of this committee, Forty-eighth Congress, as follows:

*he Committee on Invalid Pensions, to whom was referred the bill (H. R. 6782) granting a pension to Susan Woolley, have had the same under consideration, and submit the following report thereon:*

The claimant, Susan Woolley, was the lawful wife of Benjamin Woolley, who enlisted as a private in Company C, Ninetieth Ohio Volunteer Infantry, on the 6th day of August, 1862, to serve three years, and who was discharged from the service on the 13th day of June, 1865 (the war being ended), having served almost three years.

The evidence shows that this soldier was strong and vigorous at enlistment; that he was a brave soldier, having been wounded twice, once in the left side and once in the right hand.

It is also in evidence that afterwards and during the remainder of his term of service he was a constant sufferer from chronic diarrhea and piles.

After being mustered out of service in 1865, he returned to his family a broken-down man, and immediately began treatment with his family physician, but receiving little or no benefit. It is further shown that he left home about June, 1868, for Nashville, Tenn., to procure employment, and succeeded in getting employment in the Quartermaster's Department, United States Army; that while so engaged he was taken down sick and sent to the post hospital in July or August of the same year, since which time no trace has been had of him.

A witness well acquainted with him, and who had lived in the family with him, testifies that she visited him in the hospital, where she found him suffering from his old wound, gangrene having set in. The doctor in charge would not permit her to converse with Woolley at any length on account of his very weak condition. This witness only remained in Nashville a day or two, being there on professional business.

Dr. Kuehne, who was also well acquainted with Woolley, testifies that he saw him at the same hospital, and suffering from his old wounds, and that he is sure, from his condition, that he could never get well.

Two persons testify to reading the death notice in the Nashville newspapers.

The evidence is conclusive as to the domestic happiness of the family.

Two children were born to them, both boys, one of whom died a few years since; the other is badly afflicted, he being insane. At the time Woolley left his family he gave his wife $300, and it was the intention for her to come to him as soon as he became permanently located.

The best citizens of Dearborn County, Indiana, unite in saying that this is a worthy woman; that she has no means for support, except to wash from day to day; that she is now *very old, infirm, and in destitute circumstances.* It is also shown that she *has not remarried since the disappearance of her* husband in June, 1868.

The claimant's declaration for pension has been rejected by the Pension ( the ground that there is no record or other satisfactory evidence showing husband died as alleged, and of causes chargeable to his military service. It that the records of the hospital referred to, covering the period of alleged dea been lost, and none of the medical officers in charge of the same can be found

Sufficient evidence has been presented, however, to convince your commi the soldier was admitted to said hospital and treated for diseases directly c with his Army service, and that when last heard of was in such a condition a clude almost any possibility of recovery; his relations with his family, acc the evidence presented, were such as could suggest nothing short of devotion for whose comfort he struggled, even after he had been badly wounded in th of his country.

While the Pension Office, upon the evidence presented, could not grant the asked for, it is clear that the case possesses merit which should not be ignore committee, and therefore they report favorably on the bill, with the recomm that it do pass.

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 470.

# RICHARD FITZPATRICK.

RY 12, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

RIGG, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill H. R. 2244.]

*mmittee on Claims, to whom was referred the bill (H. R. 2244) pro-g for the payment of a judgment of the Court of Claims in favor of ard Fitzpatrick to the administrator of Fitzpatrick's estate, J. M. ish, have had the same under consideration, and submit the follow-eport:*

Richard Fitzpatrick was a citizen of Florida at the breaking out Seminole war, and owned a large plantation at the mouth of the River, in that State. The Indians took possession of the planta- the commencement of hostilities, and destroyed his houses, crops, he military and naval forces soon thereafter took possession and shed two military posts on the land owned by Fitzpatrick, viz, allas and Fort Lauderdale; the former was military headquar- These posts were occupied by the military for several years, and uantities of wood were cut from the lands of Fitzpatrick and y the Army, as shown by certificates of Generals Harney and

iel Fitzpatrick first presented his claim to Congress by bill in the during the first session of the Thirty-second Congress, and l $60,320 as compensation for the use and "occupation of his s by United States troops, and for wood and other property taken troops." The Committee on Claims reported a bill for his relief Report No. 234, that session), which passed the Senate, but was ed on by the House.

ll for his relief was again introduced in the Senate, and again d back favorably by the Senate Committee on Claims during the third Congress (S. 141, Report 49), and again passed the Senate. Senate bill, together with all the papers in the case, was referred lution of the House of Representatives to the Court of Claims idication on the law and facts.

Court of Claims reported their findings of fact and conclusions o the Thirty-fifth Congress, first session, and gave judgment in f claimant for $12,000, as compensation for rent, and use of wood for the troops and steamboats in the United States service.

ourt made no allowance for damage. The court recommended gress the passage of a bill appropriating the amount found due owed, and upon which the judgment of the court was unanimous. olume 3, Court of Claims Reports to Congress, first session *ifth Congress, Report No. 175,* made May 8, 1858.)

The Committee on Claims of the House of Representatives report e bill recommended to the House for passage by the Court of Clai the first session of the Thirty-sixth Congress (House Report No. 8 o action was taken.

The bill recommended by the court to pay its judgment was pas by the Senate during the first session of the Thirty-fifth Congress 393). This bill was not reached in the House.

The Senate Committee on Claims again reported a bill to pay the jud ment of the Court of Claims during the first session of the Thirty-six Congress (S. 130). This bill passed the Senate April 6, 1860, and wa reported back without amendment and a recommendation for passag by the Committee on Claims of the House April 20, 1860, but was no acted on by the House. This bill was the same as the one recommende by the Court of Claims.

Two adverse reports have been made upon the claim—one by th House and one by the Senate. The House report was made before th reference to the Court of Claims, and was mainly on the exorbitan amount claimed, which was then $60,320; the other was made by th Senate Committee on Claims at its last session, and was based upo the theory that Florida being a country of the enemy, property take by the United States authorities from citizens of the United States r siding there should not be paid for; and, second, the testimony befo the court of United States Senator Mallory, not being under oat should not be credited. Your committee thinks the objections unsoun As a matter of fact, the outbreak of the Indians had been quelled b fore the claim upon which the court gave judgment had accrued, an were it otherwise, your committee cannot concede that these Indian ever reduced Florida by conquest, so as by right of conquest to mak it the enemy's country and deprive citizens of the United States of the rights of property without just compensation.

As the counsel of the United States admitted Senator Mallory's te timony by stipulation, that objection is removed.

The reports and action of both houses of Congress have been nume ous, and, with the two exceptions referred to, all favorable to the clain ant. Four bills for his relief passed the Senate.

Colonel Fitzpatrick was unable to pay his counsel to further pros cute the judgment after the last action in Congress in 1860, and he wa unable to do so himself, being then a resident of Texas. He died soo thereafter, and now comes J. M. English, who has given evidence t your committee of his appointment as administrator of Fitzpatrick estate, and asks that an appropriation be made to pay this judgmen

This claim was before your committee at the last session of Congres and the committee unanimously recommended, in a report made b Hon. Mr. Lore, that an appropriation be made to pay the judgm n No action was taken on the recommendation.

Congress having by special action sent Fitzpatrick's claim to th Court of Claims for adjudication, and that court having cut down th claim to less than one-fifth of the original sum claimed, and the cou being unanimous in its opinion, your committee would be disposed t recommend the payment on the authority of the findings of the cou alone; but after a careful examination of the facts and the law, and i view of the favorable action of the House and the Senate since th judgment of the court was rendered, and in view also of the fact th no interest is claimed, your committee has no hesitation in recommen n g that the judgment for $12,000 be paid.

Your committee therefore report back the bill and recommend it *passage.*

The Court of Claims submitted the following report:

*To the honorable the Senate and House of Representatives of the United States in Congress assembled:*

The Court of Claims respectfully presents the following documents as the report in the case of Richard Fitzpatrick *vs.* The United States:

(1) The petitioner of the claimant to the Court of Claims.

(2) Claimant's memorial to Congress and accompanying documents, referred by the House of Representatives and returned to that House.

(3) Interrogatories to the Hon. S. R. Mallory, and answers thereto, transmitted to the House of Representatives.

(4) Agreement of the United States assistant solicitor and claimant's counsel to admit the foregoing documents (Nos. 2 and 3) as evidence in this case, transmitted to the House of Representatives.

(5) Opinion of the court.

(6) Bill for the relief of claimant.

By order of the Court of Claims.

In testimony whereof, I have hereunto set my hand and affixed the seal of said court at Washington, this fourteenth day of May, A. D. 1858.

[L. S.] SAM'L H. HUNTINGTON,
*Chief Clerk Court of Claims.*

*To the Court of Claims:*

The petition of Richard Fitzpatrick, of Brownsville, Texas, respectfully represents:

That at the commencement of the war by the Seminole Indians, in Florida, he was the owner and in actual possession of a valuable plantation on the Miami River, in Dade County, in the southern district of Florida; and that on or about the 6th day of January, 1836, his overseer, James Wright, who was in charge of his plantation and negroes, was obliged to abandon the plantation, leaving everything behind except the negroes, whom by great exertions he removed, and thus prevented them from falling into the hands of the Indians. That the plantation aforesaid was well stocked and provided with everything, and had a great variety of valuable fruit trees on it, which were procured from the West India islands at great trouble and expense—all of which were destroyed; and that the valuation hereto annexed is a very low and reasonable one, and that the losses of the articles were really sustained; and that the compensation for the occupation of the plantation by the United States troops is reasonable; and that the quantity of wood charged to have been cut from his land at the Miami River, and at New River, is less than the real quantity cut and consumed by the steamboats in the service of the United States; that he has never received any compensation whatever for any losses sustained by him, and that none of his slaves have ever received any aid or subsistence from any officer of the United States Government.

This claim was first presented to Congress (House of Representatives) at the second session of the Twenty-sixth Congress. Several reports have been made upon it, and will be found in the volumes of Reports as follows: House Report No. 279, Twenty-ninth Congress, first session; Senate Report No. ——, Twenty-second Congress, first session; Senate Report No. 49, Thirty-third Congress, first session; House Report No. 72, Thirty-third Congress, second session. Your petitioner states, by way of amendment, that he is the sole owner of the claim, and that the same was referred to this honorable court by the House of Representatives at the second session of the Thirty-third Congress.

The petition is further amended by averring that the plantation was occupied by the United States troops from the commencement of hostilities in 1836 to the close of the war, some time in 1842, during all of which time large quantities of wood and other property was taken and used by the Government troops for Governmental purposes.

The account annexed was made up to April, 1840, when the claim was first presented to Congress.

P. PHILLIPS,
*Solicitor for Claimant.*

ESTIMATE.

The following is an estimate of the losses and damages sustained by Richard Fitzpatrick, at his plantation on Miami River, near Cape Florida, by the Seminole Indians, and for the occupation of said plantation by the United States forces in Florida; and for wood cut on the lands owned by said Fitzpatrick, to the 1st day of April, 1840.

The Indians drove off the overseer and negroes on the 6th day of January, 1836, which said plantation was in the possession and occupation of the troops of the United States for three years, up to April, 1840.

| | |
|---|---|
| One hundred acres of sugar-cane, worth $100 per acre | $10,0 |
| Thirty acres of corn and pumpkins, worth | 1,2 |
| Five acres of sweet potatoes, worth | 5 |
| Four thousand plantain and banana trees | 4,0 |
| Twelve acres of Bermuda arrow-root | 5 |
| Lime grove destroyed | 2,0 |
| One hundred cocoa-nut trees destroyed | 5 |
| Nursery of tropical fruit trees destroyed | 2,5 |
| Six hundred bushels of flint corn | 1,5 |
| One hundred head of hogs | 1,0 |
| Poultry, viz: ducks, fowls, turkeys, and guinea-fowls | 2 |
| One large flat-boat, 60 feet long (cost) | 1,3 |
| One clinker-built boat | 1 |
| One cedar boat | |
| One schooner | 1,5 |
| One framed house | 2,3 |
| Two corn-cribs | 2 |
| One kitchen | |
| One poultry-house | |
| One hewed-log house | 1 |
| Twelve negro houses | 1,6 |
| One framed house, south side Miami River | 3 |
| One framed house, smaller | 1 |
| Two framed houses and out-buildings, purchased from Lewis | 2,5 |
| Plantation tools, blacksmiths' tools, carts, plows, axes, hoes, grubbing-hoes cooking utensils, &c | 5 |
| Furniture, bed clothes, books, &c | 2,0 |
| Three years' occupation of my plantation by the United States troops at Fort Dallas, Miami River | 18,0 |
| Forty thousand shingles | 2 |
| Three hundred cords of wood cut from my land, to the first of April, 1840, for the use of the United States steamers employed on the coast of Florida, at $6 per cord | 1,8 |
| Two hundred cords of wood cut from my land, at New River, for the United States steamboats, at $6 per cord | 1,2 |
| House and improvements, including fruit trees, wharf, &c., purchased of William Cooley, on Little River | 2,3 |
| | 60,3 |

*Evidence on file in Congress.*

Affidavits of William F. English, R. W. Cussans, John Costen, Reason Duke, Jo Thompson, and John Dubose.

Certificate and statement of Col. William S. Harney.

Letter of Hon. S. R. Mallory.

Report of General Jesup.

Statement of specific losses, with testimony of William F. English and W. Cooley

Letter of S. Churchill.

In the Court of Claims.

RICHARD FITZPATRICK *v.* THE UNITED STATES.

SCARBURGH, J., delivered the opinion of the court.

In the year 1836, when the war with the Seminole Indians in Florida commence the petitioner was the owner of a plantation on the Miami River, in that Sta Some time in that year the plantation was occupied by a part of the naval forces the United States, under the command of Lieutenant Powell, who built block-hous pickets, &c., thereon of timber taken from the petitioner's land, and called the p Fort Dallas. The block-houses, &c., were subsequently destroyed by the Indian but how long the plantation was thus occupied does not appear from the evidence.

Afterwards, in February or March, A. D. 1838, by order of the Quartermaster-Ge eral of the United States, Fort Lauderdale, on New River, and Fort Dallas, on t Miami River, were established on the same plantation, and they, together with t entire plantation, were occupied by the troops of the United States from that time t the year 1842. Whilst the plantation was thus occupied, timber for building a wood for fuel for the use of the troops and of steamboats in the service of the Unit States were taken therefrom. How much timber and wood were thus taken cann be ascertained from the evidence, but the quantity was large.

Immediately upon the breaking out of hostilities, the petitioner was obliged to abandon his plantation and remove his slaves from it. Under the pressure of the danger which then threatened him he left his other personal property on the plantation, and soon afterwards the whole of it, together with all his buildings, was destroyed by the Indians.

The petitioner claims compensation for the wood and timber which were taken for the use of the United States, and for the occupation of his land by their troops.

James Wright testifies that the estimate of $6,000 a year for the use of the plantation is less than the same, with the force employed on it, would have produced to the owner. William Cooley concurs in this statement.

The Quartermaster-General, in his report to the Secretary of War, dated January 13, A.D. 1841, says: "As the petitioner could make no use of the land himself, and as the fuel was cut and hauled by the troops, from $2,000 to $3,000 a year would, I should think, be ample compensation for both."

S. R. Mallory (Senator), in answer to the question "What would be a fair annual allowance by the Government for the use of said plantation during the period of their occupation?" said: "I cannot estimate the value of the use of the plantation to the United States while thus occupied. It is quite certain, however, that its occupation was of great importance, and was the best, if not the only, point in that vicinity available for the purpose to which it was put. I can refer to the opinion of General Jesup, on file in this case, and say that the use of the place, with the wood used upon it, ought, in my judgment, to be worth $3,000 per annum, but I have no accurate data to arrive at this estimate. I know the place well; was there frequently while it wa occupied by Fitzpatrick as a plantation, and by the troops as a military post; and state this gross sum as what strikes me as being fair, though to the United States, in the prosecution of the war, it must have been regarded as an important station." Afterwards he stated as follows: "In my reply to the fifth interrogatory touching the value of Fitzpatrick's place to the United States while occupied by them, I said hat the 'use of the place, with the wood used upon it, ought, in my judgment, to be worth $3,000 per annum.' This estimate is, I believe, a very moderate one, and is formed exclusively on my own judgment. I know the place well. The Government was compelled to establish a post in that vicinity on Key Biscayne Bay, and had it selected any other than this particular place, occupying both sides of the river Miami, a very considerable outlay and continual expenditure would have been entailed upon it, exceeding this $3,000 per annum.

"In my judgment, it was worth to private enterprise $3,000 per annum; and private enterprise, too, that would have preserved, and not have destroyed, the valuable fruit trees, &c.

"It is the only place in the whole bay where steamers can go alongside the shore and land cargo. At all other places they are compelled to anchor at a great distance from the shore, and the saving in dollars and cents which the Government made by selecting this point above others was very large.

"I have stated what I regarded as the value of the rent. I am confident that the owner would not have rented it for this sum.

"I cannot say what the place would have rented for in open market, for it was the only plantation within 150 miles of it, and there were no planters near it able to rent it."

We are not justified by the evidence in saying that the petitioner's plantation was occupied by the United States for a longer period than four years.

Our opinion is, that the petitioner's claim is well founded. This private property was taken for public use, and he is entitled to a just compensation therefor.

As to the amount of compensation, a general estimate made by a witness, who knows the premises well, and frequently visited them whilst in the occupancy of the United States, is all that can justly be required of the petitioner. Such a witness is Senator Mallory. We adopt his estimate.

We shall, therefore, report to Congress a bill in favor of the petitioner for the sum of $12,000, as compensation for the wood and the rent.

A BILL for the relief of Richard Fitzpatrick.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Treasury be, and he hereby is, directed, out of any money in the Treasury not otherwise appropriated, to pay to Richard Fitzpatrick the sum of twelve thousand dollars, in full for the use and occupation of his plantation as a military post of the United States between the years 1836 and 1842, as also for the damage done to said plantation in the cutting of wood and lumber during such occupation.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 471.

# CERTAIN EMPLOYÉS AND OTHERS OF TWELFTH UNITED STATES LIGHT-HOUSE DISTRICT.

FEBRUARY 12, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MCKENNA, from the Committee on Claims, submitted the following:

## REPORT:

[To accompany bill H. R. 190.]

*The Committee on Claims, to whom was referred the bill (H. R. 190) for the relief of certain employés and others of the twelfth United States light-house district, having had the same under consideration, report as follows:*

That some of said claimants were employés of, and others furnished materials for the use of, said light-house district. The claims were ordered to be paid, but were not, because the money was embezzled by John T. Best, the clerk of the engineer. Best was convicted of the embezzlement. The letter from the Secretary of the Treasury hereto attached explains and shows that the bill should pass. We therefore recommend its passage.

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TREASURY DEPARTMENT, *February* 21, 1883.

SIR: I have the honor to transmit herewith a copy of a letter of the 24th ultimo, from the Light-House Board, with inclosure, in regard to claims against the United States arising from the defalcations and forgeries of John T. Best, late clerk of the engineer of the Twelfth Light-House District, from which it appears that the total amount of said claims, so far as known, is $76,152.07, of which $18,465.65, after careful examination, is believed to be indisputably due, and $57,686.42 to require further evidence and investigation before payment. The Board recommends that the latter class of claims be referred, under section 1063 Revised Statutes, to the Court of Claims for ascertaining of the legal liability of the United States and final judgment, and that application be made to Congress for necessary legislation to enable the Board to discharge the claims included in the first class, in regard to which it is believed no question can arise from any available balances belonging to general appropriations for the light-house establishment for the fiscal years 1881–'82. The claims thus recommended to be paid are as follows, viz:

| | |
|---|---|
| Employés Point Conception Light | $3,784 70 |
| Miguel Ortego | 480 14 |
| Charles Ashton | 270 00 |
| Pigeon Point Light Station | 980 99 |
| Sundry small bills | 1,200 95 |
| Martin and P. B. Murphy | 10,000 00 |
| O. B. Shaw | 1,748 87 |
| Total | 18,465 65 |

I have accordingly respectfully to trasmit this communication, so that action may be taken by Congress in the matter if it appears wise to do so, agreeably to the desire of the Light-House Board.

Very respectfully,

H. F. FRENCH,
*Acting Secretary.*

Hon. J. WARREN KEIFER,
*Speaker of House of Representatives.*

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TREASURY DEPARTMENT,
OFFICE OF THE LIGHT-HOUSE BOARD,
*Washington, D. C., January 24, 1883.*

SIR: Referring to your commnnication of December 26 with reference to the claim Light-House Board, at its session of the 4th instant, had these claims under consideration and referred them to its committee on finances, with instructions to investigrowing out of the defalcations of John T. Best, I have the honor to state that the gate and report at the meeting of the 18th instant, and the report of the finance committee, of which a copy is inclosed, was submitted to and adopted by the Board. In accordance with this action of the Board, I have respectfully to request that the immediate attention of Congress be invited to the claims contained in the first list as prepared by the finance committee, comprising those that are believed to be indisputably owing, in order that authority may be had to pay this indebtedness from any available balances now existing on the books of the Treasury for the support of the light-house establishment for the fiscal years ending June 30, 1881, and June 30, 1882. If this authority be granted by Congress, no new appropriation will be required. The remainder of the claims, it is recommended, be transmitted to the Court of Claims for judicial investigation and adjustment. The papers affecting them are herewith inclosed. The vouchers relating thereto are in the custody of the Register of the Treasury, of the First Auditor, and of the Commissioner of Customs, and it is recommended that they be withdrawn from the files and forwarded with the other papers. The following is a list of inclosures sent herewith:

Copy of the report of committee of finances of the Light-House Board.

Preliminary report on the defalcations made by Col. C. S. Stewart, U. S. A., dated February 4, 1882.

Further report by Col. C. S. Stewart, U. S. A., dated March 6, 1882.

Report of Special Treasury Agents J. F. Evans and S. A. Johnson, dated March 15, 1882.

Report by Lieut. A. H. Payson, U. S. A., dated April 15, 1882.

Further report by the same, dated April 26, 1882.

Further report by the same, dated January 5, 1883.

Very respectfully,

S. C. ROWAN,
*Vice-Admiral, U. S. N., Chairman.*

The Hon. SECRETARY OF THE TREASURY.

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TREASURY DEPARTMENT,
OFFICE OF THE LIGHT-HOUSE BOARD,
*Washington, January 17, 1883.*

SIR: The committee on finance, to whom were referred the papers relating to claims against the Light-House Establishment, growing out of the defalcation of John T. Best, clerk in the office of the engineer of the twelfth light-house district, has had them under consideration, and now reports—

That all practical sources of information available to the board seem to have been exhausted, and that, from these alone, it is impossible to arrive at unhesitating conclusions in regard to the claims as a whole; that the committee, while recognising the possibility that all these claims are just, has found evidence, which it regards as conclusive in respect to a certain portion of them, and has, therefore, deemed it proper to separate the claims into two lists, the first showing those which the committee believe to be indisputably owing, and the second, all those in regard to which it is thought advisable that judicial investigation be made. The amount of the first list is $18,465.65, and the second $57,686.42.

The sum of these two, $76,152.42, represents, so far as is known, the total amount of the embezzlement. It is not deemed necessary in this report to go into the details of the evidence upon which the committee bases its conclusions, as is fully set forth

ers referred to the committee, especially in the report of Colonel Stewart, ates Engineers, dated March 6, 1882; in that of Captain Payson, United gineers, dated January 5, 1882, and in the letter of the First Auditor of the dated December 20, 1882. With reference to the claims in the first list, g to $18,465.65, the committee recommends that application be immediately Congress (with the view of securing the necessary legislation in the Sundry for authority to discharge the indebtedness from any available balances to general appropriations for the support of the Light-House Establishment cal years of 1881–'82. This course will not require the making of any new tions, and the indebtedness, with the exception of a few items, was actually luring these years. With regard to the second list, the committee follows ation of the First Auditor of the Treasury (see his letter, dated December and the memorandum of the honorable the Secretary, dated December 26, recommends that all the papers, vouchers, proofs, reports, &c., relating to the aims included therein be referred to the Court of Claims, under section 1063, tatutes, for ascertainment of legal liability of the United States in each case al judgment.

ers which were referred to the committee are herewith returned.

y respectfully,

O. M. POE,
*Chairman of Committee on Finance.*

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FIRST LIST.

[Includes claims which should receive the immediate attention of Congress.]

| | |
|---|---|
| , Point Conception | $3,784 70 |
| rtego | 450 14 |
| ton | 270 00 |
| int | 980 99 |
| nall bills | 1,200 95 |
| P. B. Murphy | 10,000 00 |
| w | 1,748 87 |
| al | 18,465 65 |

SECOND LIST.

[Includes claims which it is recommended be referred to the Court of Claims.]

| | |
|---|---|
| utting & Son | $16,580 87 |
| Roberts | 981 08 |
| Carrigan & Co | 3,168 04 |
| . A. Hooper | 269 14 |
| Fuller & Co | 972 85 |
| Co | 551 89 |
| Kendry | 50 92 |
| Cowell | 3,814 44 |
| well | 1,792 69 |
| ratt | 2,374 32 |
| gley | 4,061 74 |
| | 73 80 |
| . A. Hussey | 149 50 |
| fee & Co | 2,924 58 |
| tega | |
| . Speers & Co | 704 36 |
| ms | 292 31 |
| nson | 47 64 |
| Klauber & Co | 19 85 |
| ine | 110 15 |
| l, Bric & Co | 2,335 65 |
| Perkins & Co | 16,410 60 |
| al | 57,686 42 |

C

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 472.

# JAMES CLIFFORD.

RY 12, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

KENNA, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill H. R. 75.]

*mittee on Claims, to whom was referred the bill (H. R. 75) for the of James Clifford, having had the same under consideration, re- fully report:*

a petition for the relief of said James Clifford was referred to nmittee on Claims in the Forty-seventh Congress; that the com- fully reported the facts to the House. Those facts have been as- ed to be true by the independent investigation of this committee. committee, therefore, adopt said report and recommend the of the bill. The report is hereto attached.

*mittee on Claims, to whom was referred the petition of James Clifford, having had the same under consideration, respectfully report:*

he claim presented is for the sum of $556.70, the reasonable value, as it is y the petitioner, of two iron doors and ten iron windows, weighing 2,916 furnished by him between the dates of September 20 and October 5, A. D. the United States jail at Fort Smith, Ark. That the work was done, and me stated, there can be no question.' The petitioner, under oath, states prices charged were the customary prices for similar work and material to tomers. Two resident blacksmiths of Fort Smith, under oath, on the 15th er, 1875, state that they had inspected the work done, and that the charges made by the petitioner were reasonable and according to the customary prices Smith for similar work. The jailer, under oath, December 27, 1875, certifies account of the petitioner is just and correct. The Hon. I. C. Parker, judge estern district of Arkansas, inducted into office shortly after the work was a communication to the Senate and House of Representatives, dated Decem- 875, accompanying the petitioner's memorial, with account attached, says: satisfied that Mr. Clifford has done the work charged in his account as hav- done on the United States jail at Fort Smith; that the prices charged are le; that it was necessary that such work should be done."
Blanks, the jailer, under oath, says that in September, 1874, he had in cus- r one hundred prisoners confined in a single room, and to render an adjoining ure became a matter of indispensable necessity for their safe-keeping, and efore he employed the petitioner to do the work charged in his account, be- hat it would be paid for when completed.
'agan, the then marshal at Fort Smith, and while still in office, on the 22d r, 1875, states, under oath, that in September, 1874, in consequence of the mber of prisoners confined, and the constant increase in numbers, many of ere charged with murder, it became necessary to strengthen the jail, and that ence E. B. Blanks, the jailer, employed James Clifford, the petitioner, to do

the work; that the work was well done and necessary for the safe-keep prisoners. He further says that had he been at home at the time he woul ported the condition of the jail, forwarded estimates as required by law, an an order for the performance of the work.

From the above, and other proofs accompanying the petition, the commit satisfied that James Clifford did the work mentioned in his account; th charged therefor is reasonable, and that the same was really necessary f keeping of the prisoners, and of lasting benefit to the Government.

Thus being satisfied, it is believed by the committee that payment ough withheld from Clifford merely on account of his irregular employment, a that the work was performed in good faith, and in utter ignorance of the i of such employment. The committee therefore report herewith a bill for hi and earnestly recommend its passage.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 473.

# DENTON & SAGE.

FEBRUARY 12, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. BUCHANAN, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill H. R. 3039.]

*The Committee on Claims, to whom was referred House bill 3039, having considered the same, report as follows:*

This bill was favorably reported by Mr. A. J. Warner from the Committee on Claims of the Forty-eighth Congress. (See Report No. 1681, Forty-eighth Congress, first session.)

For the reasons set forth in said report, your committee recommend that the bill do pass.

The report is as follows:

[House Report No. 1681, Forty-eighth Congress, first session.]

*The Committee on Claims, to whom was referred the bill H. R. 1735, having considered the same, report as follows:*

On the 23d day of September, 1871, Messrs. Denton & Sage, of Chicago, received a consignment of sixty hogsheads of sugar. This sugar was stored for the time being in the Empire warehouse, where it was duly appraised by Charles H. Ham, the Government appraiser, when the duties, amounting to $1,549.67, were paid. The evidence shows that this sugar was entered for consumption in that market, and was stored in the said warehouse for convenience and duties paid, so that it might be removed at any time for consumption, but that none of it had been removed when, on the 9th of October, this sugar, together with the warehouse in which it was stored, was consumed in the great fire of that date. Application was soon after made to the Treasury Department to have the duties refunded.

The following exhibits show the import of sugar as stated, the place of storage, duties paid, &c., also the result of the correspondence with the Treasury Department:

CHICAGO, ILL., *Nov. 24th*, 1871.

To the Hon. JAMES E. MCCLEAN,
*Col. of the Port:*

We would respectfully submit the following papers and facts in regard to the destruction, by the fire of October 8 and 9, of sixty hogsheads Porto Rico sugars lying in the Empire warehouse of this city, where they were landed and stored, and where they were appraised by Charles H. Ham, esq., and from whence they had not been moved. These sugars were shipped on the 5th day of September last on the schooner "Arabia," from Kingston, Ontario, Canada, by J. Carruthers & Co., and consigned to us for sale on their account. After a long voyage the schooner arrived here about the 18th of September and on the 21st of same month the sugars were appraised by Charles H. Ham, esq., appraiser, and on the 23rd of same month we paid duties on them as follows:

| | | | | |
|---|---|---|---|---|
| 15 hhds., | 20,651, | 12½ per cent., | 18,070—.02c | $361 40 |
| 45 " | 60,356, | " | 52,812—.02½c | 1,188 27 |
| 60 " | | | Gold | 1,549 67 |

These sugars were for sale for consumption in this market and were wortl pound, or in round numbers, $8,500. As they were not consumed, at least i contemplated by the Government when she receives duties on her importu to assume that other sugars will be forwarded to this market to take tl those destroyed, and on which the Government will receive a like amount We therefore deem it equitable, if not legal, that these duties be refunded we respectfully ask that they be so refunded, and that if you cannot find warrant for such refunding in the law as it now stands, you will kindly gi advice in the matter as to the best course to pursue, and add any evidence ment that may be in your power to verify and strengthen the foregoing and accompanying papers.

Mr. John Hitt, the deputy collector, with whom the entries were made, will be able to confirm, from memory at least, all the facts as stated, so far a quainted with them. We would add that these sugars were insured in the cial Ins. Co., of Chicago, for $8,000, which company, having all its assets i public improvements in this city, and all of which were destroyed in the is now insolvent, as is the case with all other local companies, and from tl formation we can obtain the insurance is valueless. You will thus see tha loss, in any event, attaches to Messrs. Carruthers & Co., whilst the Gover this transaction, is positively benefited to the extent of the duties paid, wit pensation to the shipper and owner, as contemplated.

Very respectfully, yours,

DENTON &

List of papers accompanying:
No. 1. Copy of bill of lading.
No. 2. Certificate of landing by John Hitt, deputy collector.
No. 3. Certificate of appraisement by Charles H. Ham, appraiser.
No. 4. Certificate of destruction by W. P. Dickinson & Co.
No. 5. Certificate of insurance by Commercial Insurance Company.

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No. 1.

KINGSTON, *Sept*

Shipped this day by J. Carruthers & Co., on board the schooner Aral Moreland master, the undermentioned property, in good order. Freight a hence payable by consignees, at the rate of $1.50, gold, per ton, and canal

| Marks and Nos. | Number of pc's. | Description of property. | Consign |
|---|---|---|---|
| | 60 | Hogsheads sugar. Gross weight, 81,183 pounds. | Denton & Sage |

J. MOR

---

No. 2.

PORT OF CHICAGO, *U.*

I, John Hitt, dep. collector of the port of Chicago, U. S., do hereby certi schooner Arabia, James Moreland master, has this day landed at this port t mentioned goods, viz:

Sixty hogsheads sugar.

Shipped by J. Carruthers & Co., Kingston, Ontario.

Given under my hand and seal of office, at Chicago, U. S., this 23rd day o ber, 1871.

[SEAL.]

JOHN HI
*Deputy C*

---

No. 3.

CUSTOM-HOUSE, *Octo.* 2

Appraised Sept. 21st, 1871. Consigned to Denton & Sage
15 hhds. sugar No. 12-99, 30, 33, 51, 20, 82, 80. No. 62, 96, 114, 111, 104, 1
Not above No. 10 standard rate 2¼c. per lb.
45 hhds. sugar not above No. 13 " " 2¾ " "
These sugars went into Empire warehouse.

CHARLES H. H
*A*

No. 4.

*te of Illinois:*

d Smith, one of the partners of the firm of W. P. Dickinson & Co., of warehousemen, carrying on business in the Empire warehouse, being duly clare and affirm under oath that on the 23rd of September, 1871, there was our dock and stored in the Empire warehouse a lot of sixty hhds. Porto rs, thirty thereof being marked Y and the other thirty M N S; that the said lot hds. sugars were landed ex barque "Arabia," from Kingston, Ontario; and customs duty was paid thereon by Messrs. Denton and Sage, to whom the re consigned; that at or before the time of burning the Empire warehouse aid lot of sugar had been removed from the Empire warehouse for consump-

ALFRED SMITH (of the firm W. P. Dickinson & Co.).
before me and signed in my presence this 28th day of October, 1871.
R. C. HAMMILL,
*Justice of the Peace.*

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TREASURY DEPARTMENT,
*Washington, D. C., December 15th*, 1871.

our communication of the 13th inst. is received, further relating to the ap- of Messrs. Denton and Sage for a refund of the duties paid by them on cer- r, imported in September last, which, as alleged, was totally destroyed by e 9th of October.

ars that the importers made consumption entry, and paid the duties, on the ptember; that thereupon the sugar was duly delivered to them, and that it en since said date under the supervision or control of the officers of the Under these circumstances I regret to say that the application of Messrs. nd Sage cannot be granted, as the merchandise at the time of the casualty ior had been for some time prior thereto, in the custody of the officers of the either in bonded warehouse or otherwise. See sec. 8 of the act of March 1.

m, very respectfully,
GEO. S. BOUTWELL,
*Secretary.*

-HOUSE, CHICAGO,
*lector's Office, January 4th*, 1872.
copy.
JAS. E. McLEAN,
*Collector.*

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CUSTOM-HOUSE, CHICAGO, ILL.,
*Collector's Office, Jan'y 4th*, 1872.

. DENTON AND SAGE,
190 *Washington St., City:*

: In reply to yours of 3rd inst. I inclose herewith the decision of the Hon. r of Treasury.
JAS. E. McLEAN,
*Coll. of Customs.*

e sugar been stored in a bonded warehouse, the duties paid would have been by the Secretary of the Treasury under the act of March 28, 1854. But not een landed and stored at a Government wharf and received in a Government e, the duties could not be refunded without the authority of Congress. The e sugar was not taken to a bonded warehouse was that it was intended for e consumption, and was therefore landed at the most convenient point. gar, of course, came in to take the place of this destroyed by fire, on which ies were paid, and as the reason for not refunding the duties was technical, n its merits, your committee recommends the passage of the bill authorizing ding of the amount of duties actually paid.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 474.

# PATTISON & CALDWELL.

FEBRUARY 12, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. C. E. BROWN, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill H. R. 1813.]

*The Committee on Claims, to whom was referred the bill (H. R. 1813) for the relief of Pattison & Caldwell, have considered the same, and respectfully report:*

That the bill is the same as Senate bill 956 of the Forty-eighth Congress, which received a favorable report (No. 356) from the Committee on Finance; which report, after careful consideration by this committee, is adopted as its own, and is as follows:

That the bill, together with the accompanying papers, was submitted to the Secretary of the Treasury, and by him referred to the Commissioner of Internal Revenue. In view of the facts set forth in the letter of the Commissioner, which is appended hereto and made a part of this report, the committee recommend that the relief be granted.

TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,
*Washington, March* 8, 1884.

SIR: I have the honor to return herewith the letter and inclosures of Hon. Justin S. Morrill, chairman of the Committee on Finance, United States Senate, addressed to you and by you referred to me for report. Mr. Morrill incloses a copy of Senate bill 956 for the relief of Pattison & Caldwell, and papers relating thereto, and asks that you will direct the proper officer of your Department to report the facts, and also his views as to the propriety of granting the relief.

Senate bill No. 956 recites the circumstances of the destruction of the distillery of Pattison & Caldwell by fire, when water thrown upon the burning building ran into the spirit cisterns and became intermingled with the spirits therein so as to reduce the same twenty degrees below proof, and the tax of 90 cents was exacted as required by law on each wine gallon of said spirits, and proposes to authorize and direct the Secretary of the Treasury to pay to said Pattison & Caldwell so much, not exceeding $510.30, as it shall be made to appear to the satisfaction of the Commissioner of Internal Revenue they have paid as internal-revenue taxes on said spirits in excess of what they would have been required to pay thereon had there been no such intermixture of water and reduction of proof.

I have the honor to report as follows:

The records of this office show that the distillery of Messrs. Pattison & Caldwell was destroyed by fire March 18, 1883; that the contents of the receiving cisterns were damaged and reduced below proof by water from the fire-engines; that the spirits so damaged and reduced below proof were drawn off and warehoused on the 28th of March, 1883, the gauger's report showing 2,899 wine and 2,319.20 proof gallons; and that they were withdrawn and the tax paid on the number of wine gallons, 2,899, April 19, 1883. Had the tax been collected on the proof gallons only it would have been collected on 2,332 gallons, the difference between this and 2,319.20 being made

by the fractions of over one-half. The difference between the number of taxable gallons was therefore 567 gallons, the tax on which, at 90 cents per $510.30.

I am of the opinion that the bill (S. 956) is an equitable one, and that a bi nature should become a law.

Very respectfully,

WALTER EVA
*Commi*

Hon. CHARLES J. FOLGER,
*Secretary of the Treasury.*

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 475.

# E. J. PHILLIPS.

Y 12, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

E. BROWN, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill H. R. 5553.]

*mittee on Claims, to whom was referred the bill (H. R. 1933) for the relief of E. J. Phillips, submit the following report:*

Committee on Claims, to whom was referred the bill H. R. 5687 Forty-eighth Congress, considered the facts in this case, and made thereon, which your committee adopt as their report, as follows:

he papers filed in this case it appears that on the night of the 2d day of 2, the post-office at Oberlin, Ohio, was entered by burglars, the safe blown d postage-stamps of the value of $1,837.64, and money-order funds amount- 7.25, were stolen therefrom. The Post-Office Department examined the case, rt that the loss resulted from no fault or negligence of the postmaster, E. J. but that he seems to have exercised all the care and diligence in the prem. could be required. The said sum of $227.25 has been paid by Phillips to the ent; the said sum of $1,837.64 has not been paid to the Department, but a charge against Phillips. The Department recommends that the said Phil- llowed a credit of $2,114.89, being the aggregate of the two sums last named. provides for the payment of said sum to E. J. Phillips, the postmaster; but only paid $277.25, and is charged with the balance, $1,837.64, your commit- t a substitute for the bill submitted, which substitute provides that the ter-General be authorized to credit the accounts of E. J. Phillips with the of $2,114.89 in settling his accounts.
mmittee recommend the passage of the substitute.

committee therefore recommend the passage of the accompany- stitute reported by this committee.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 476.

# TAXATION OF CERTAIN INSURANCE AND BANKING COMPANIES.

FEBRUARY 12, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WILLIAM WARNER, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill H. R. 1628.]

*The Committee on Claims, to which was referred House bill* 1628, *having had the same under consideration, respectfully submits the following report:*

The object of this bill is the passage of a law reopening certain refunding claims on file in the office of the Commissioner of Internal Revenue, which have heretofore been rejected, and authorizing the Commissioner to examine said claims and allow such portion of them as he may find to be a second or double tax upon the same profits. Under the rules of the Departments these claims, having been once rejected, cannot be reopened. It is also claimed that parties had no notice of the rejection of their claims by Commissioner Douglass.

Prior to 1870 the insurance companies and banks named in said bill had, under authority of their charters and by-laws, invested a large portion of their surplus funds or profits in bonds and stock of other corporations. This matter was fully considered the second session of the Forty-eighth Congress by the Committee on Ways and Means, Mr. Hurd from that committee submitting a report as follows:

*The Committee on Ways and Means, to which were referred the petitions of the Continental Fire Insurance Company, the Eagle Fire Insurance Company, the City Fire Insurance Company, and the Commercial Mutual Insurance Company, of the city of New York, and the Western National Bank, the Merchants' National Bank, and the Maryland Fire Insurance Company, of the city of Baltimore, State of Maryland, and also the bill H. R.* 2475, *has had the same under consideration, and submits the following report:*

1. That prior to 1870 the insurance companies and banks above named had, under authority of their charters and by-laws, invested a large portion of their surplus funds or profits in the bonds and stocks of other corporations.

2. That under the laws of the United States enacted in 1862 and 1864, an internal-revenue tax of 5 per cent. was required by law to be levied and collected upon the interest upon bonds and dividends upon stocks, such tax to be withheld, and paid by the company paying such interest and dividends; and that under the provisions of this law, the corporations in which said insurance companies and banks held bonds and stocks retained the 5 per cent. taxes upon the interest and dividends declared by them, and paid the said taxes over to the Government, and the interest and dividends due said insurance companies and banks were paid over to them, less said taxes. The amount thus received by the said insurance companies and banks was, therefore, only 95 per cent. of such interest and dividends.

3. That said insurance companies and banks were required by the officers of internal revenue, when they made their own returns for taxation, to include said interest

and dividends, upon which a tax of 5 per cent. had already been paid, in their said returns, and to pay a second tax upon said interest and dividends, and thereby they were required to pay a double tax upon the same identical profits.

4. That said insurance companies and banks, within the time limited by law, and in accordance with the law and regulations in that regard, filed refunding claims for the repayment of the double taxes so exacted, as follows:

| | |
|---|---|
| City Fire Insurance Company | $4,141 07 |
| Eagle Fire Insurance Company | 2,857 31 |
| Continental Fire Insurance Company | 1,023 75 |
| Commercial Mutual Insurance Company | 9,685 93 |
| Western National Bank | 5,041 27 |
| Merchants' National Bank | 1,217 50 |
| Maryland Fire Insurance Company | 1,640 42 |

Which said claims were rejected by Commissioner Douglass without a proper hearing, and without notice to the claimants, and Mr. Douglass retired from the office of Commissioner of Internal Revenue, and his successors have held that they had no authority of law to reopen said cases.

Since the rejection of said claims by Commissioner Douglass, the Internal-Revenue Office has taken up other similar claims which were pending at the same time, and were left unacted upon by Commissioner Douglass, and the office, adopting the views of the law as construed by Judge Lowell in the case of the Merchants' Insurance Company *vs.* McCartney, collector of internal revenue, United States circuit court, eastern district of Massachusetts, May term, 1870, reported in 1 Lowell, page 447, said claims were paid with the approval of the Secretary of the Treasury.

5. Your committee, upon an examination of this question, is of the opinion that the double taxes exacted from said companies were illegally assessed and collected, and should have been refunded, and that justice now requires that the claims should be reopened, to enable the Commissioner of Internal Revenue to re-examine them with a view of allowing such portion of said claims as may be found to be a double tax.

Your committee therefore asks leave to report the accompanying bill for the relief of all of said companies, as a substitute for bill H. R. 2475, and recommends its passage.

Your committee, concurring in the conclusions reached in the foregoing report, respectfully recommends the passage of the accompanying bill.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 477.

# G. ALEXANDER RAMSAY.

FEBRUARY 12, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. W. WARNER, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill H. R. 5551.]

*The Committee on Claims, to whom was referred the bill (H. R. 951) for the relief of Sarah E. Ramsay, widow in community, and Anna E. Wagner, the heir, of G. Alexander Ramsay, respectfully report as follows:*

The claim in this case is for an informer's share of certain moneys collected from the Houston and Texas Central Railway Company as penalties for non-payment of taxes out of which that company had attempted to defraud the Government by false returns of its income. The Secretary of the Treasury, by authority of law, issued a circular prescribing certain rewards, graduated according to the amount, for information of frauds upon the internal revenue. G. Alexander Ramsay, on the faith of this circular, gave certain information of frauds which were being committed by the Houston and Texas Central Railway Company, and upon his information suits were commenced against that company for the recovery of the taxes and penalties, but before judgment had been given in those suits they were compromised, in June, 1874, by the payment of tax, penalties, cost, and interest, to the amount of $15,694.03, of which amount $5,000 was for penalties and the remainder for the tax, interest, and costs of court. Ramsay thereupon applying for payment of his stipulated reward was met by the reply that the act under which he gave the information having been repealed, he could no longer recover for information given. It was not denied that he was the first and only informer, and this fact has been expressly found by the Court of Claims, upon a reference made under the Bowman act in the last Congress by the Committee on Claims, for an inquiry into the facts. Besides, in the act repealing the law under which this informer's share was claimed there was an express saving of all accrued rights The act under which the information was given is contained in the 14th Statutes at Large, pages 145, 146, passed July 13, 1866, and the repealing act is dated June 6, 1872, and is contained in the 17th Statutes at Large, page 256, section 39, which provides—

That so much of section 179 of the act of July 13, 1866, as provides for moieties to informers be and the same is hereby repealed.

Section 46 of the act, 17th Statutes at Large, page 258, is in these words:

That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed: *Provided*, That all the provisions of said act shall be in force for levying

and collecting all taxes properly assessed, or liable to be assessed, or accruing under the provisions of former acts, the right to which has already accrued, or which may hereafter accrue, under said acts, and for maintaining, continuing, and enforcing liens, fines, penalties, and forfeitures incurred under and by virtue thereof. And this act shall not be construed to affect any act done, right accrued, or penalty incurred under former acts, but every such right is hereby saved; and all suits and prosecutions for acts already done in violation of any former act or acts of Congress relating to the subjects embraced in this act may be commenced or proceeded with in like manner as if this act had not been passed.

These statutes, your committee think, entitled Ramsay to his stipulated reward.

The Committee on Claims in the last Congress reported in favor of calculating the reward on the entire amount paid, including not only penalty, but tax, interest, and costs. It seems, however, that the claimant, under the law and the regulations of the Treasury Department, was only entitled to a reward calculated on the amount specifically paid as penalty, and which in this case was $5,000. By the terms of the circular set out in findings of the Court of Claims the reward in case of a penalty of $5,000 amounted to $1,700, and your committee therefore report in favor of the payment of that sum.

The bill in this case is for the relief of Sarah E. Ramsay, as widow, and Anna E. Wagner, as heir. No proof of heirship having been presented to your committee, they consider it proper to leave that matter to the decision of the accounting officers of the Treasury, and they therefore report back a substitute giving the amount of the claim to the legal representatives.

A copy of the report made by the Committee on Claims in the last Congress is appended to this report and includes the findings of the Court of Claims. Also appended copy of letter of honorable Secretary of the Treasury of February 12, 1885.

Your committee therefore report back the accompanying bill as a substitute for the bill H. R. 951, and recommend that said substitute do pass.

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*The Committee on Claims, to whom was referred the bill (H. R. 2200) providing for the relief of G. Alexander Ramsay, respectfully report as follows:*

The claim in this case is for an informer's share of certain moneys collected from the Houston and Texas Central Railway Company as penalties for non-payment of taxes out of which that company had attempted to defraud the Government by false returns of its income.

Your committee, not being clearly and fully advised of all the facts in the case, referred it to the Court of Claims for a finding of facts, under section 1 of the act approved March 3, 1883, "to afford assistance and relief to Congress and the Executive Departments in the investigation of claims and demands against the Government" (22 Statutes at Large, p. 485). That court has made a finding of the facts, which is hereto appended. From this it fully appears that from information given by the claimant there was collected from the Houston and Texas Central Railway Company the sum of $15,694.03, and that of this amount his share, by the terms of the circular of the Secretary of the Treasury, which is made a part of the findings, is as follows:

| | |
|---|---|
| On the first $12,000 | $2,850 00 |
| On the remaining $3,694.03, 5 per cent | 184 70 |
| Total | 3,034 70 |

Your committee therefore report back the bill H. R. 2200 with the following amendment: In section 1, lines 3 and 4, strike out the words "eight thousand eight hundred and ninety-seven dollars and fifty cents," and insert in lieu thereof the words "three thousand thirty-four dollars and seventy cents." And the committee recommend that as so amended the bill do pass.

In the Court of Claims, term 1883–1884.

lexander Ramsay *vs.* The United States. No. 63. Congressional case.

FINDINGS OF FACT.—FILED MAY 15, 1884.

) having been heard before the Court of Claims, the court, upon the evi-
s the facts to be as follows:

I.

14th of August, 1866, the Secretary of the Treasury issued the following

TREASURY DEPARTMENT, *August* 14, 1866.

amendatory of the internal-revenue law, which went into effect on August
1 the following provisions:
here not otherwise provided for, such share as the Secretary of the Treas-
by general regulation provide, not exceeding one moiety nor more than
ınd dollars in any one case, shall be to the use of the person, to be ascer-
the court which shall have imposed or decreed any such fine, penalty, or
who shall first inform of the cause, matter, or thing whereby such fine,
r forfeiture shall have been incurred; and when any sum is paid without
fore judgment, in lieu of fine, penalty, or forfeiture, and a share of the same
by any person as informer, the Secretary of the Treasury, under general
1 to be by him prescribed, shall determine whether any claimant is entitled
ıre as above limited, and to whom the same shall be paid, and shall make
ecordingly.
reby declared to be the true intent and meaning of the present and all pre-
isions of internal-revenue acts granting shares to informers, that no right
or is vested in any informer in any case until the fine, penalty, or forfeit-
1 case is fixed by judgment or compromise, and the amount or proceeds shall
paid, when the informer shall become entitled to his legal share of the sum
r agreed upon and received: *Provided*, That nothing herein contained shall
ed to limit or affect the power of remitting the whole or any portion of a
ty, or forfeiture conferred on the Secretary of the Treasury by existing

ıe authority here conferred the following schedule of informers' shares is
scribed:

| | |
|---|---|
| t five hundred dollars of any penalty the informer shall receive | 50 per cent. |
| t fifteen hundred dollars | 40 per cent. |
| t two thousand dollars | 30 per cent. |
| do | 25 per cent. |
| do | 20 per cent. |
| do | 10 per cent. |
| ve twelve thousand dollars and not exceeding fifty-five thou-lars | 5 per cent. |
| ıe penalty is five hundred dollars, the informer will receive | $250 00 |
| ısand dollars | 450 00 |
| usand dollars | 850 00 |
| ousand dollars | 1,150 00 |
| usand dollars | 1,450 00 |
| usand dollars | 1,700 00 |
| ısand dollars | 1,950 00 |
| ıousand dollars | 2,150 00 |
| ousand dollars | 2,350 00 |
| ousand dollars | 2,500 00 |
| ısand dollars | 2,650 00 |
| housand dollars | 2,750 00 |
| thousand dollars | 2,850 00 |
| dditional one thousand dollars up to fifty-five thousand | 50 00 |

HUGH McCULLOCH,
*Secretary of the Treasury.*

II.

formation first given by the claimant to the Commissioner of Internal Rev-
said circular was issued, and communicated by him through a supervisor
revenue to a United States district attorney, and at the request of said
, the district attorney brought suits against the Houston and Texas Central

Railway Company in the United States court for the eastern district of Texas, for forty penalties, of $1,000 each, alleged to be due because the company had made fraudulent returns of receipts, which said suits were compromised in June, 1874, before judgment, by the payment by the defendants of $5,000 as or in lieu of penalties, $5,521.87 for tax unpaid, $1,834.95 for interest thereon, and $3,337.21 for costs of court; in all, $15,694.03.

III.

In March, 1875, the claimant made application for a share of said sum so received in compromise, and received the following reply thereto:

TREASURY DEPARTMENT,
OFFICE OF INTERNAL REVENUE,
*Washington, March* 15, 1875.

SIR: Your letter of the 24th ultimo, to the Hon. Solicitor of the Treasury, in relation to the case of the Houston and Texas Central Railway Company, in which you claim the informer's share, has been referred to this office. You state that your information was furnished in March, 1871; but the case was not disposed of until June, 1874, when it was compromised upon payment of $5,000 and all taxes due, and costs, after the date when the act of June 6, 1872, repealing informers' shares, went into force; hence you are not entitled to the share for which you make application.

* * * * * * *

Respectfully,

J. W. DOUGLASS,
*Commissioner.*

G. ALEXANDER RAMSAY, Esq.

Again he made like application to the Secretary of the Treasury, and the same was referred to the Commissioner of Internal Revenue, who made the following reply thereto, and the Secretary thereupon rejected the claim for the reason stated by the Commissioner:

TREASURY DEPARTMENT,
OFFICE OF INTERNAL REVENUE,
*Washington, June* 12, 1876.

SIR: I have the honor to return the letter of G. Alexander Ramsay, of the 2d instant, addressed to you, in relation to his claim for compensation as informer, in the case of the Houston and Texas Central Railroad Company, and to state that Mr. Ramsay does not appear to be entitled to any compensation, for this reason: His information was furnished in March, 1871. The case was compromised in June, 1874, upon payment of five thousand dollars ($5,000) penalty, and all costs and taxes due, amounting in the aggregate to fifteen thousand six hundred and ninety-six dollars and three cents ($15,696.03), after the act of June 6, 1872, repealing the law allowing shares to informers, went into effect.

Mr. Ramsay was informed to this effect March 15, 1875.

I have the honor to be, respectfully, etc.,

D. D. PRATT,
*Commissioner.*

SECRETARY OF THE TREASURY.

IV.

This case was submitted to the Court of Claims on the foregoing facts, and on the 5th of May, 1879, was dismissed for want of jurisdiction in the court to entertain it. The opinion of the court is reported in the 14th Court of Claims Reports, 367.

A true copy.

Test, this 12th day of June, 1884.

[SEAL.]

JOHN RANDOLPH,
*Assistant Clerk, Court of Claims.*

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TREASURY DEPARTMENT,
*February* 12, 1885.

SIR: There is pending before the House a bill (H. R. 2200) for the relief of G. Alexander Ramsay, which proposes to pay him $3,034.70 in settlement of his claim for moiety against the United States.

Your attention is respectfully called to the fact that Mr. Ramsay was entitled to claim only $1,700.

was $1,700.
y respectfully,

H. McCULLOCH,
*Secretary.*

ENTON McMILLIN, M. C.,
*hairman of Committee on Ways and Means,*
*House of Representatives.*

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 478.

# LYSANDER H. CARROLL.

FEBRUARY 12, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. GALLINGER, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill H. R. 1455.]

The Committee on Claims, to whom House bill 1455 was referred, having considered the same, respectfully report the same back with a recommendation that it do pass.

The accompanying documents are made a part of the report:

POST-OFFICE DEPARTMENT,
OFFICE OF ASSISTANT ATTORNEY-GENERAL,
*Washington, D. C., January* 29, 1884.

SIR: In reply to your inquiries concerning the burglary of the post-office at Concord, N. H., I have the honor to state:

(1) That this Department has absolutely no means of ascertaining the amount of "postal" funds in the possession of a postmaster at a given date.

(2) From the evidence filed in the case, it appeared that the loss occurred through no fault or negligence of the postmaster; and he was therefore allowed a credit of $86.18 for money-order funds, and $534.11 for postage-stamps lost by the burglary referred to.

(3) There has been no evidence filed to show that the postmaster was guilty of any violation of law or regulation touching the custody of such funds.

(4) All papers filed in the case were transmitted on the 12th instant to Hon. Eli Saulsbury, of the Senate Committee on Post-Offices and Post-Roads, for consideration in connection with a bill similar to the one inclosed.

Very respectfully,

A. A. FREEMAN,
*Assistant Attorney-General, Post-Office Department.*

Hon. OSSIAN RAY,
*House of Representatives.*

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CONCORD, N. H., *January* 25, 1886.

SIR: I wish to present, through you, to the House Committee on Claims, a statement relative to my loss by burglars, which occurred September 5, 1883. The Concord post-office is a depository office. A hundred and eighty or more fourth-class postmasters deposit at this office the balance due the Government from them, quarterly. The money so received, and when received, is placed in the safe with other postal funds, and deposited in the bank as frequently as the amount is sufficiently large for a deposit. I usually kept my cash deposited up very closely. The safe in the office was purchased and put there by the Post-Office Department, and was placed in the most exposed position, being near the sidewalk, and a gas-jet kept burning during the night within 6 feet of the safe-door. This office is also a paying office of railway postal clerks, who register at this office. On the last day of August, 1883, I drew my check and took money from the bank sufficient to meet the demands of my monthly pay-roll. Previous to the burglary I had paid all who were on the pay-roll except John E. Skinner, a postal clerk running on the route from Rich-

ord, Vt., to Concord, N. H. It being his week off duty, he had not received his pay as usual. The amount, being $75.82, was placed in an envelope and put with the payroll, and locked in an iron vault in the safe. This amount, $75.82, was a part of the $194.24 in cash which the burglars took from the safe. Of course it is impossible for me to tell whether the money so stolen was a part of it, postal funds, or money that had been received on deposit from other offices, as my practice was to keep but one package before depositing in the safe vault. As the $75.82 had been once deposited in the bank and drawn therefrom, it could not possibly be the same money received by me as postal funds.

L. H. CARROLL.

Hon. J. H. GALLINGER,
*Washington, D. C.*

STATE OF NEW HAMPSHIRE, *Merrimack, ss:*

JANUARY 25, 1886.

Personally appeared the above-named L. H. Carroll, and made oath that the above statement by him subscribed is true.

Before me,

ROBT. A. RAY,
*Justice of the Peace.*

NGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
ssion. } { No. 479.

# JOHN LEATHERS.

12, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

EAL, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill S. 767.]

*mittee on Claims, to whom was referred the bill (S. 767) for the of John Leathers, having considered the same and accompanying , submit the following report:*

he committee find the facts to be as stated in Senate Report No. ninth Congress, first session, which said report is hereto and made part of this report, and is as follows:

5th day of February, 1879, Leathers was indicted by the grand jury of the ates for the district of Nevada, under sections 2133 and 2139 of the Revised f the United States. The indictment contained two counts, charging him, attempting to reside as a trader and to introduce goods and to trade in the ntry in the district of Nevada without a license, as required by law; and introducing or attempting to introduce spirituous liquors into the said Intry. Said acts were alleged to have taken place within the limits of the Pyre Indian Reservation in said district.

1st day of July, same year, he was convicted by a trial jury in the district said district of the offenses charged in said indictment, and the day for projudgment against him postponed until the first Tuesday in December fol- order that he might have time to present his application for executive . A petition for his pardon appears to have been forwarded to the Attorney- y the United States attorney for the district of Nevada, July 25, 1879. Said after reciting the facts above set forth, contains the following:

our petitioner respectfully represents that he honestly and really at all eved that his place of business was located outside of the limits of said res- ; that the posts and monuments set up by the Indian agents in charge of said n to mark and designate the boundaries thereof were not truly placed, and ulated to and did mislead your petitioner, as fully appears by the special f the jury in the case, a true copy of which is hereunto annexed and made reof.

etitioner further represents that he was never notified by any officers of the ent to remove from his said location, and never knew that there was any suppose he was violating the law until he was arrested by the United States nder the indictment aforesaid."

lowing is a copy of the special findings of the jury in the case annexed to ion:

Is the defendant's place of business within the Pyramid Lake Indian Res- as the red lines are shown on the map of Mr. Monroe?

d. Is the defendant's place of business within the lines of said reservation d by the wooden posts set up at the instance of Bateman, the Indian agent?

l. Is the defendant's place of business within the lines of the reservation as s are or were marked by the stone monuments set up by Mr. Monroe at the rveying the reservation?

"Fourth. Did the defendant trade at his place of business without a license, and did he introduce spirituous liquors there?

"Yes."

Indorsed upon said petition is the following statement:

I am of the opinion that the facts which appear in the case show that the statements in the foregoing petition are true, and that they authorize the granting of the pardon prayed for. The conduct of the Government through its local offices for many years in relation to the reservation mentioned has been such as to induce the larger portion of the entire population of Western Nevada to believe there was no legal reservation. The survey was by triangulation. No monuments were set up by the surveyors except at the angles and corners, and then only at long distances and on top of mountain peaks, and the only designation of boundaries was made subsequent to survey by the agent, and his designation was erroneous and misled the petitioner Leathers.

I heartily join my petition with his for a free pardon.

E. W. HILLYER, *District Judge.*
C. S. VANAIR, *District Attorney.*
AUGUSTUS ASH, *United States Marshal, Nevada.*
A. J. BARNES, *Late Indian Agent, Nevada.*

From the original letters of the United States district attorney for the district of Nevada to the Attorney-General, it appears that after said conviction was had, if not before, he became doubtful as to whether the United States district court had jurisdiction of the case, and submitted that question to the Attorney-General, stating that the question of jurisdiction had been overlooked by counsel for defendant and by the court. The Attorney-General, it appears, decided that the court had no jurisdiction. We quote the following from one of said letters, dated February 26, 1880:

"My position is somewhat embarrassing in these cases. It hardly seems proper for me, or in the line of my duty as a prosecuting officer, to press these cases to a final judgment of fine, which will probably result in imprisonment, with the knowledge that the court has no jurisdiction. On the other hand, should I confess the error now the moral effect of these convictions will be lost, and the officers of the Indian agency will be caused much annoyance and trouble. It seems an anomaly to issue pardons for non-existing offenses; yet, if they could be granted consistently with the position the Government ought to occupy, the whole matter would be relieved from embarrassment."

The application for pardon was not acted upon till the 28th day of February, 1881, when the President granted to the claimant a full unconditional pardon. In the mean time sentence had been pronounced upon the claimant, and he had been adjudged to pay a fine of $501 and the costs of prosecution, amounting to $243.90, which amount had been paid and covered into the Treasury of the United States by Miscellaneous Warrant No. 1397, first quarter of 1881.

The granting of the pardon appears to have been a proper exercise of executive clemency, but it came too late to avail the claimant, although the effect of a pardon by the President is to remit a pecuniary penalty accruing to the United States, yet if the penalty has been paid, and the money actually covered into the Treasury, it cannot be drawn therefrom without appropriation by act of Congress (8 Op. Att'y-Gen. 281).

The United States attorney for the district of Nevada recommended the granting of the pardon upon condition that the claimant should pay the costs of the prosecution. Acting upon this suggestion the Senate Committee on Claims, at the first session of the Forty-eighth Congress (Report No. 47), recommended that the bill introduced at that session of Congress and referred to the committee for the relief of the claimant should be amended so as to provide for refunding to the claimant the amount of said fine only ($501); but upon further examination of this claim your committee are of the opinion that inasmuch as the claimant received a full and unconditional pardon, the full amount of fine and costs paid by him should be refunded to him without interest and therefore recommend that the bill be amended by striking out the words "five hundred" and inserting the words "seven hundred and forty-four dollars and nine cents," and that when so amended the bill do pass.

The committee therefore adopt said Senate report as the report of this committee, and report the accompanying bill for his relief, with recommendation that it pass.

The penalty of forfeiture annexed to the commission of the offense must fall pardon of the offense itself, provided the full operation of the pardon be ined by the condition upon which it is granted. * * * The pardon, in the offense, obliterating it in legal contemplation (Carlisle v. United States, 151), removes the ground of the forfeiture upon which the decree rests.

But, were this otherwise, the constitutional grant to the President of the pardon offenses must be held to carry with it, as an incident, the power to nalties and forfeitures which accrue from the offenses.

* * * * * * *

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 480.

# T. H. TRIPLETT.

FEBRUARY 12, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. NEAL, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill H. R. 279.]

*The Committee on Claims, to whom was referred the bill (H. R. 279) for the relief of T. H. Triplett, submit the following report:*

It appears that the claimant, as postmaster at Dalton, Ga., on November 3, 1884, forwarded by register $120 postal funds due by him for the month of October, 1884, addressed to the assistant treasurer of the United States, New York; that the same was destroyed, with much other mail matter, including all registered packages, by a wreck of the train near Bristol, Tenn., on the night of November 4, 1884, in which the postal car was consumed by fire. The Sixth Auditor of the Treasury, not being authorized by law to allow claimant credit for the amount lost, required him to make an additional deposit covering the same, which was done July 3, 1885. The above-stated facts are clearly shown by the records of the Post-Office Department. It further appears that the funds lost had been forwarded in strict accordance with the instructions of the Department, and that the loss was in no way due to any fault or negligence of claimant. The bill under consideration provides for the allowance of said sum to claimant.

Your committee recommend the passage of the bill.

O

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 481.

# JAMES M. LOWRY.

ARY 12, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

NEAL, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill H. R. 277.]

*mittee on Claims, to whom was referred the bill (H. R. 277) for the relief of James M. Lowry, submit the following report:*

ppears that claimant was assistant marshal at the eighth census eleventh enumeration district of East Tennessee, and that a bal- s still due him for his services. The amount due, and the reasons he same has not been paid, are stated in the letter following from ensus Office:

DEPARTMENT OF THE INTERIOR, CENSUS OFFICE,
*Washington, D. C., December 28, 1883.*

Responding to your verbal request relative to the claim of Mr. James M. Lowry assistant marshal at the eighth census for the eleventh enumerator's district of Tennessee, I beg to inform you that it does not appear from the records of this hat Mr. Lowry has yet received final payment for his services in that capacity. full sum allowed him as an assistant marshal at the eighth census was $430.77, ich he received on first payment $213.

late war and consequent disabilities prevented any final payment in this case, many others, but in 1879 an estimate of the amount required to pay all out- ng balances to marshals and assistant marshals at the eighth census who had en paid in full was made by this office, and an appropriation therefor was made agress (under act of June 20, 1879).

uded in the amount estimated for by this office was the sum of $217.73 for final Mr. James M. Lowry, but it does not appear from our records that he was ever

appropriation therefor has, however, long since lapsed, and before payment can de to Mr. Lowry further action by Congress must be had.

Lowry's letter to yourself is herewith returned.

Very respectfully.

C. W. SEATON,
*Superintendent of Census.*

ue copy.

GEO. M. LOCKWOOD,
*Chief Clerk, Interior Department.*

. J. C. CLEMENTS, M. C.,
*House of Representatives.*

imant further shows that after the appropriation of June 20, 1879, red to in the foregoing letter, he was not informed of the same, and quently was not paid until this appropriation had lapsed. It is festly just in the opinion of your committee that this bill should assed, and they so recommend.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 482.

# HARRY FISK.

FEBRUARY 12, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SPRINGER, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill H. R. 3909.]

It appears from the report made to the Postmaster-General by D. H. Pulsifer, post-office inspector, that on the night of November 23, 1885, the post-office at Aurora, Dearborn County, Indiana, was entered by burglars, and money-order funds to the amount of $50.38, and postal money to the amount of $283.50, and a large amount of postage-stamps were stolen. The report is as follows:

POST-OFFICE DEPARTMENT, OFFICE OF POST-OFFICE INSPECTOR,
*Aurora, Ind., December* 5, 1885.

SIR: I have the honor to return herewith case No. 222,569 "B," robbery of the post-office at Aurora, Dearborn County, Indiana, November 24, 1885, at about 2.30 a. m., with the following information:

After a personal investigation of two days, and after an examination of all particulars of the robbery, I find the post-office was entered by unknown burglars, on the night of November 23, 1885 (or rather at about 1.30 a. m. on November 24, 1885). They effected an entrance to the post-office by breaking the fastenings on rear window, and then raising the same, and then opening both the front and rear doors from the inside, thus giving them an opportunity to leave by either entrance; after an entrance was gained to the post-office the safe was drilled, evidently with a half-inch drill, two holes being bored, one directly over the other, on the left of the combination dial, and from the appearance it is supposed that dynamite was used to blow the safe open; the door of the safe is completely ruined; all the postage-stamps in the safe were stolen and carried off, except the news, personal, and special delivery; the burglars also took from the money-order drawer in the safe the surplus money-order funds, amounting to $50.38; also from another drawer in the safes the postal money, amounting to $283.50.

The robbery was not discovered until 5.30 a. m. on November 24, 1885, when the postmaster, at his usual hour, visited the post-office. The postmaster called in the assistant cashier, George W. Wood, of the Aurora National Bank, who was in the bank near the post-office, and after that the assistant postmaster, George Fisk, and Alex. B. Patterson, cashier of the Aurora National Bank, and they saw the condition of the post-office as left by the burglars. The postmaster received on November 20, 1885, 20,000 two-cent stamps, and these were in the safe at the time of the robbery and none of them had been used. The postmaster, after the robbery, took account of all stamps, envelopes, &c., on hand, and a copy of the same is herewith submittted on form No. 3240, marked Exhibit A; the same form also contains a statement of the number, amount, and denomination of stamps stolen, as claimed by postmaster. In making estimate of sales for twenty-three days in November, 1885, the postmaster is very liberal, as his estimate is $55.91 larger than for the same period in October, 1885; this I account for by the sale of special return envelopes in November, 1885.

From the records in the Aurora post-office and from personal investigation I make the following statement:

*Dr.*

| | |
|---|---|
| On hand, close of business, October 31, 1885 | $316 64 |
| Received from Post-Office Department October 31 to November 24, 1885 | 612 30 |
| Total to account for on November 29, 1885 | 928 94 |

*Cr.*

| | |
|---|---|
| On hand November 29, 1885, after robbery | $163 00 |
| Sales from October 31 to November 24, 1885 | 259 14 |
| Amount stolen, as claimed, night of November 23 | 506 20 |

My examination of the money-order records in the Aurora post-office—an embraced its applications, advices, register of money-orders issued, register vices received, and cash-book—shows as follows:

*Dr.*

| | |
|---|---|
| To balance from November 22, 1885 | $ |
| November 23, 1885: | |
| To money-orders issued, No. 32,703 to 32,709, inclusive | |
| To money-order fees | |
| To postal notes issued, Nos. 1,416 and 1,417 | |
| To postal-note fees | |
| Total to account for | 1 |

*Cr.*

| | |
|---|---|
| By 3 money-orders paid | $52 00 |
| November 23, 1885: | |
| By 1 postal note paid | 4 99 |
| By balance cash on hand | 50 38 |
| Total accounted for | 1 |
| Advices on hand November 23, 1885: | |
| No. 4,440, issued at Helena, Ala., November 23, 1885, for | 20 00 |
| No. 4,289, issued at Orange, Cal., November 17, 1885, for | 3 00 |
| No. 60,956, issued at Cincinnati, Ohio, November 21, 1885, for | 30 00 |
| Total amount of advices | 53 00 |

The Advice No. 4440 issued at Helena, Ala., for $20, bears date November 23, 18 yet it was received at Aurora at 9 p. m., November 23, 1885, and bears evidence having been issued undoubtedly on either Saturday evening after close of business November 21, or on Sunday November 22. I arrive at this conclusion from the f that the date is written in over the date used in the stamp, and have no doubt l what the money-order will show the same.

From this examination, based on the records in the Aurora post-office, I find postmaster was entitled to have on hand for the payment of advices, not less th two weeks old, the sum of $53, while his cash-book shows he had only $50.38 on ha at the close of business November 23, 1885.

Neither the postmaster nor any clerk in his employ was responsible for the los money-order funds, or postage-stamps, or the robbery of the post-office on the nig of November 23, 1885. The postmaster used due diligence and care of the propert intrusted to him, as is shown by the fact that he provided a safe, of good make, for i safe-keeping.

The postmaster and local authorities have made every effort to bring the guilty pa ties to justice, but failed in their efforts. A "crook" residing at Lawrenceburg, l the name of William Harrison Gregory, is supposed to have been engaged in the ro bery of the post-office, and an effort was made to arrest him on the night of Novemb 27, 1885, but was unsuccessful, as the police were evidently afraid, and Gregory caped from his house, the postmaster giving him a charge of shot, as he, Gregor jumped from the steps. Gregory was evidently wounded, as traces of blood still ex on the stoop and steps where he stood at the time the postmaster fired at him; u doubtedly the postmaster would have been successful in effecting the arrest of Gr ory, except for the reason that one barrel of his gun failed to explode, owing to a fective cap. I made a search of Gregory's house yesterday, and although Gregor trunk was in the house and opened in my presence by breaking the lock, there nothing to convict him with the post-office robbery, although there was abund evidence he was a "crook."

Two parties we arrested at Indianapolis on December 2, and are supposed to h been engaged in the robbery of the post-office at Aurora, and also at Seymour, there is very little legal evidence to connect them with the robberies, although the good reason to believe they can be convicted of local burglaries and crimes, and

terday I found several witnesses who could identify them as having been in the vicinity when several robberies were committed. These witnesses have gone to Indianapolis for the purpose of identifying the parties arrested.

There is not much doubt but that the wounding of Gregory, and thus driving him out of the country, and the arrest of his two friends, will be the means of breaking up the gang who have been engaged in the recent post-office robberies in this section of the State.

In my opinion Harry Fisk, postmaster at Aurora, Dearborn County, Indiana, should receive credit for $5,038 money-order funds stolen from his safe on the night of November 23, 1885, also a credit of $506.20 for postage-stamps stolen from his safe on the night of November 23, 1885.

Very respectfully,

D. H. PULCIFER,
*Post-Office Inspector.*

To JAMES T. METCALF,
*Post-Office Inspector in charge, Chicago, Ill.*

It is very clear from the statements of the foreging report and other evidence on file that this loss did not result from any negligence, carelessness, or neglect of duty on the part of Harry Fisk, the postmaster, or any of his employés or subordinates. It also appears that the office was properly and prudently conducted. Under existing law the Postmaster-General is authorized to furnish relief as to the money-order funds and postage-stamps stolen, but not as to the postal money, $283.50. The committee recommend that the bill be amended, inserting therein $283.50 instead of $285.50, and as so amended they recommend the passage of the bill.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 483.

# ELIZABETH BATES.

FEBRUARY 12, 1886.—Laid on the table and ordered to be printed.

Mr. T. D. JOHNSTON, from the Committee on War Claims, submitted the following

## REPORT:

[To accompany bill H. R. 1956.]

*The Committee on War Claims, to whom was referred the bill (H. R. 1956) for the relief of Elizabeth Bates, widow of William Bates, submit the following report:*

The claim is for use and occupation of certain grounds and building at Evansville, Ind., by the United States Army for military hospital in 1861 and 1862, and for damages done to said property. The claimant asks for an allowance of $15,000.

The claimant adduces evidence to prove the occupancy of the property and to sustain her claim for damage done; that the property was occupied by the Government for the purpose stated there is no doubt; that the Government paid some $1,200 for the rent thereof, is admitted by the claimant.

The records of the War Department, as furnished your committee on request, show that on the — day of May, 1862, the said William Bates entered into a contract in writing with F. H. Eherman, lieutenant and assistant quartermaster, for the rental of said property for hospital purposes, at the rate of $1,400 per year, and as the claimant admits the payment of rents to said William Bates in his lifetime, your committee conclude that the same was a full and complete settlement of said claim between the agents of the Government and said Bates. They therefore report adversely to said claim and recommend that said bill lie on the table.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 484.

# WILLIAM B. ISAACS & CO.

FEBRUARY 12, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. J. W. REID, from the Committee on War Claims, submitted the following

## REPORT:

[To accompany H. Res. 67.]

The Committee on War Claims, to whom was referred a resolution (H. Res. 67) for the relief of William B. Isaacs & Co., beg leave to report that the questions involved in this resolution were, by the action of the House in the Forty-fifth Congress, referred to the Committee on the Judiciary, and a favorable report was made thereon, but no action taken by the House. That in the Forty-sixth Congress like action was taken, and again a favorable report was made thereon. In the Forty-seventh Congress it was referred to the Committee on War Claims, who made a favorable report thereon, but in neither case did the resolution have action by the House.

The facts in this case have been so often and so fully reported that your committee have adopted in the main the report from the Judiciary Committee of the Forty-fifth Congress, as setting forth accurately the facts involved.

That it appears from the papers referred with said petition that on the evacuation of Richmond, on the 2d of April, 1865, the Bank of Virginia and the Farmers' Bank of Virginia withdrew from their said banks about $450,000 in gold and silver coin and bullion, principally, however, in gold coin, and proceeded with said treasure, under the care of certain officers of said banks, to Washington, in the State of Georgia; that on the 24th day of May, 1865, the said officers of said banks, together with said treasure, set out with a wagon-train from Washington, Ga., for Richmond, having the proper permit and safe-conduct for so doing, issued by General M. B. Patrick, provost-marshal-general; that some time during the night of the 24th of May, 1865, being encamped near the Savannah River, about 18 miles from Washington, Ga., they were attacked by an armed cavalry force and their surrender demanded. They claimed the protection guaranteed them under the safe-conduct or pass of General Patrick, which was disregarded, and, under threat of death, they were obliged to submit to being pillaged. These robbers succeeded in carrying away about $250,000 in gold and silver coin and bullion of the said $450,000. The following day that portion of the treasure train left intact proceeded on its way to Richmond, and finally arrived there.

The next day following the robbery, the bank officers remaining behind recovered about $110,000 of the treasure of the $250,000 of which they had been pillaged the previous night, and carried the same to Washington, Ga., and placed it on deposit with the cashier of the

Bank of Washington, where it remained under the care and custc of the said officers of said Richmond banks until the latter part July, 1865, at which time, having procured a pass and safe-conduct fr General Steedman, in command of that district, with headquarters Augusta, Ga., said officers proceeded with said $110,000 from Wa ington to Augusta. That about the 1st of August said bank offic arrived in Augusta with said $110,000 and placed it on deposit in c of the Augusta banks, where it remained under the control and witl the possession of said officers of said Richmond banks until the lat part of August, 1865, at which time General Steedman, in obedience instructions from the authorities at Washington, D. C., requiring t delivery of said $110,000 to a United States Treasury agent, who b been sent to Augusta, Ga., took possession thereof and delivered it said Treasury agent, who thereupon transported the same to Washi ton, D. C., and placed it in the United States Treasury. That sc thereafter the officers of said Richmond banks proceeded to Washingt D. C., and presented their petition in writing to the President of t United States and the Secretary of the Treasury, setting forth that s treasure was the private property of said banks, and that they were titled to have the same returned to them. That after a full investigati of all the facts in connection with the matter, the President of the Unit States, the Secretary of the Treasury, and the Attorney-General decid that said treasure was the private property of the said banks, and tl they were legally entitled to have the same turned over to them; a the necessary directions were given therefor. That, notwithstandi this decision, subsequently a joint resolution was introduced in t House of Representatives, on the 22d of March, 1867, providing for t covering of said gold and silver coin and bullion into the Treasury the United States, which said resolution passed the House on the d on which it was introduced, and passed the Senate the following d

From that day to the present the owners of said treasure have be endeavoring to secure the return of said treasure to its legal owners.

That in June, 1871, under and by virtue of decrees made by the circ court of the United States at Richmond, the assets of said banks we sold for the benefit of the creditors of said banks. That among t assets so sold was the claim of said banks for said $110,000 of gold a silver coin and bullion. That at said sale said William B. Isaacs & C became the purchasers, for the benefit of themselves and others creditors of said banks. That by virtue of said sale said William Isaacs & Co. have become the successors in interest of said banks and to said treasure.

The question for determination is, was said treasure, at the time was so taken possession of by the United States at Augusta, the priv property of said banks? If it was, then your committee agree that t said banks or their legal representatives are justly entitled to recei from the United States the value thereof. In the judgment of yc committee it is deemed the better course to refer the question of own ship of said treasure for determination to the Court of Claims.

Your committee have agreed to the accompanying bill, which p vides for a reference of this case to the Court of Claims for its investi tion.

Upon the case thus stated there would seem to be little or no dou that the money so taken should be paid over to the petitioners, Mess Isaacs & Co. But there must have been evidently another side to tl case, which your committee have no means of investigating.

The story of the petitioners, as above recited, is supported very fully by *ex parte* affidavits and some documentary evidence, which, if they state all the facts, would compel the judgment of the committee. Yet your committee do not fail to see that there must have been some other side to this story to have required or induced the action of Congress; some representations must have been made to Congress that should have induced both branches to have taken the very prompt action which they did in this case, and the President of the United States to approve the bill covering this money into the Treasury of the United States. That side of the case has not been presented to your committee, and if it were we have no proper and adequate means of investigating it, or the truth of the very clear *prima facie* case made by the petitioners. If the latter case should be fully sustained, upon thorough and impartial investigation, then it seems clear to your committee that the petitioners would be entitled to relief. This seems, therefore, to be one of that class of claims which should be investigated by a judicial court, with a view that the rights of both the United States and the petitioners should be ascertained and determined upon evidence taken under all the safeguards that the law requires in the investigation of rights by the courts.

Therefore your committee recommend the passage of the joint resolution as amended.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 485.

# JOSIAH SHINKLE.

FEBRUARY 12, 1886.—Laid on the table and ordered to be printed.

Mr. RICHARDSON, from the Committee on War Claims, submitted the following

## REPORT:

[To accompany bill H. R. 3975.]

*The Committee on War Claims, to whom was referred the bill (H. R. 3975) for the relief of Josiah Shinkle, having considered the same, submit the following report:*

The claimant in his bill filed in this case asks to be allowed the sum of $100,000 in payment for his services in saving Government property during the late war. He claims that in the month of October, 1864, while in command of the steamer Colossus, in private service, and at that time at Nashville, Tenn., he discovered two barges that had broken loose from their moorings, and were being carried at a rapid rate down the river; that he thereupon took the yawl belonging to the steamer Colossus; he, with great difficulty, succeeded in landing both barges without any damage to one of them; that the other barge struck the bridge, and was in danger of sinking, but every means was used by the claimant and his men by constantly pumping until relieved by Lieutenant Stevens, quartermaster, U. S. A., who took charge of them.

The said barges were loaded with new railroad iron, each barge having about 600 tons of iron on board.

The said quartermaster at Nashville, Tenn., took possession of said barges, and promised the claimant that he should be paid for his services, but claimant says that he was called away from Nashville very unexpectedly, and on his return was unable to find said Stevens, and that he has never been paid anything for his services.

Claimant says that he presented his claim to an attorney at law residing at Cincinnati, Ohio, about one year after he rendered the said services, and retained him to prosecute it, and that in 1874 he learned, for the first time, that his claim had never been prosecuted, and thereupon, in 1876, he first appealed to Congress for relief.

On examination of the affidavits and exhibits filed in this case your committee find some evidence tending to prove that some services were performed of the nature described, but they do not seem to have been regarded by the claimant at the time of the transaction of the importance and magnitude now claimed by him.

He made no claim for compensation to the assistant quartermaster at Nashville at the time of the transaction. His manly efforts to save the property, which turned out to belong to the Government, was appreciated at the time by the quartermaster, who said he should be paid for his trouble. The subsequent indifference of the claimant in not

seeking to secure compensation for what he had done, but in al the matter to rest many years without doing anything, tends to that he did not consider the matter as important.

In view of all the circumstances presented by the evidence sub by the claimant, your committee do not feel warranted in recom ing the payment of any money to claimant, and therefore rep versely, and recommend that his bill do lie upon the table.

GRESS, } HOUSE OF REPRESENTATIVES. { REPORT
sion. } { No. 486.

# WELLS C. McCOOL.

12, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

NER, from the Committee on War Claims, submitted the following

## REPORT:

[To accompany bill H. R. 3930.]

*ittee on War Claims, to whom was referred the bill (H. R. 3930) relief of Wells C. McCool, having considered the same and accom- papers, submit the following report:*

nmittee find the facts to be as follows: On the 1st of Decem- , Wells C. McCool, of Guthrie County, Iowa, was regularly into the service of the United States as first lieutenant, Com- Twenty-ninth Iowa Infantry Volunteers, and in March, 1863, personal difficulty with the lieutenant-colonel of his regiment, by court-martial, and sentenced to be dismissed from the serv- United States with loss of all pay and allowance; that sen- said court-martial was approved April 30, 1863, and that the ls C. McCool served as such lieutenant until that time; that ntly, on the 12th of September, 1863, the said Wells C. McCool tated in Company I, Twenty-ninth Iowa Infantry Volunteers, ate soldier, and served faithfully as such until the close of the ervice of said company, when he was mustered out with his and regiment on the 10th of August, 1865; that his disabilities it of said dismissal were removed by the President of the United the 22d of August, 1867, and that he was afterwards commis- the governor of Iowa as an officer in the State troops of said l faithfully served as such until he removed from the State. of the faithful service performed by the said Wells C. McCool said court-martial and sentence, and his subsequent faithful service in the capacity of a private soldier for the period of years justly entitle him to the relief sought for in the bill, and mittee therefore recommend the passage of the same.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 487.

# WILLIAM J. ALEXANDER.

FEBRUARY 12, 1886.—Laid on the table and ordered to be printed.

Mr. GEDDES, from the Committee on War Claims, submitted the following

## REPORT:

[To accompany bill H. R. 4891.]

*The Committee on War Claims, to whom was referred the bill (H. R. 4891) for the relief of William J. Alexander, having considered the same and accompanying papers, submit the following report:*

The committee find the facts to be as stated in Senate Report No. 478, Forty-fifth Congress, second session, which report is hereto annexed and made a part of this report, and is as follows:

Your committee have carefully examined the evidence filed in this case, and find the following letter from Major Lyon, to wit:

HEADQUARTERS LEFT WING, FORCES OF EAST TENNESSEE,
*Cumberland Gap, November 22, 1863.*

COLONEL: I herewith send voucher of William J. Alexander, lately in my employ as United States detective. He cannot receive pay for his services after September 13, 1863, as the jurisdiction of the brigadier-general commanding expired at that date. It will be necessary for Mr. Alexander to make affidavit that the amount of expenditures charged was actually expended in the discharge of his duties.

Very respectfully, your obedient servant,

G. COLLINS LYON,
*Major and Assistant Inspector-General.*

Col. JAMES B. MULKEY,
*Commanding Tenth Indiana Legion.*

The affidavit of claimant is dated December 10, 1873, and is as follows, to wit:

STATE OF INDIANA,
*Monroe County, ss:*

Be it remembered, that on this 10th day of December, 1873, personally appeared before Zachariah T. Coffin, a justice of the peace, at my office, in the town of Bloomington, in said county, William J. Alexander, known to me to be a resident citizen of said town, who, being by me first duly sworn, states on oath: My name is William J. Alexander; my age is thirty-nine years; my residence is Bloomington, Monroe County, Indiana; my occupation, blacksmith and machinist; I entered the service of the United States as a detective, under the appointment of General O. B. Willcox, then in command of Indiana, on the 3d day of July, 1863, and continued to serve as such until the 20th day of December next thereafter. By agreement with said Willcox, I was to receive from the United States $125 per month and my expenses for my services. I have received from Captain Ekin, assistant quartermaster United States Army at Indianapolis, Ind., on the order of General Willcox, $311 in part payment of my services and expenses. I have never at any time received any other amount. When I applied to Colonel Simonson, United States Army, who succeeded General Willcox in Indiana, he said he had no funds for the payment of such services, and could not, for that reason, pay me. The expenses I incurred in the service was at least $20 per month.

The papers containing my appointment, my account for services, and account of my expenses and all other papers connected therewith, I put a house in Bloomington, and after repeated and careful search, are not t They are lost or destroyed. I have no copy of them or any of them. I c the substance, except as above stated.

I claim the United States justly owes me for five and one-half months' s for expenses at $20 per month, making together $797.50, less the amount p above, $311, leaving a balance in my favor of $486.50, which is justly c owing to me; and further saith not.

WILLIAM J. ALE

Subscribed and sworn to before me, December 10, 1873.

[SEAL.] ZACHARIAH T. CO

*Justice of*

THE STATE OF INDIANA,

*Monroe County, ss:*

I, John R. East, clerk of the circuit court within and for the count aforesaid, do hereby certify that Z. T Coffin, esq., whose certificate of a ment appears to the instrument of writing to which this is attached, was of making said certificate, to wit, the 10th day of December, 1873, a justice within and for said county of Monroe, duly elected, commissioned, and qu that full faith and credit ought to be given to his official acts, and that th purporting to be his is genuine.

In witness of which I hereunto affix the seal of said court and subscrib at Bloomington, this 11th day of December, 1873.

[SEAL.] JOHN R. EA

The following correspondence is found with papers. Letter of April 1 Adjutant-General, as follows, to wit:

WAR DEPARTMENT, ADJUTANT-GENERAL'S O

*Washington, Apr*

SIR: Referring to your verbal inquiry of the 4th instant in relation to William J. Alexander, amounting to $486, for alleged service as detecti have the honor to inclose herewith copy of letter, February 7, 1873, fro on the subject, and of the report of Col. J. S. Simonson, United States A referred to, and to state that the records of this office throw no furthe the subject.

Very respectfully, your obedient servant,

E. D. TOWNS

*Adjuta*

Hon. M. C. HUNTER,

*House of Representatives, Washington, D. C.*

[First indorsement.]

The within statement is not what I desired. I know your records do n Alexander entitled to pay, and for that reason I am seeking relief in Cong want is a statement showing that Mr. Alexander was in the service of ment and recognized and paid by order of General Willcox up to the time sended by General Simonson.

Respectfully,

MORTON C.

Received Adjutant-General's Office, April 27, 1874.

The copies of the two letters therein referred to are as follows, to wit:

WAR DEPARTMENT, ADJUTANT-GENERAL'S O

*Washington, Febru*

SIR: Referring to memorandum left by you at this office on the 13th ul tion to the claim of William J. Alexander, amounting to $250, for allege detective in 1863, in the employ of Col. J. S. Simonson, who succeeded G Willcox in command of the district of Indiana and Michigan, I have t inform you that investigation fails to show that anything is due Mr. Al that Colonel Simonson reports he did not employ him.

I am, sir, very respectfully, your obedient servant,

E. D. TOWNSE

*Adjuta*

Hon. MORTON C. HUNTER,

*Bloomington, Ind.*

*Report of Col. J. S. Simonson, U. S. A.*

CHARLESTOWN, CLARK COUNTY, INDIANA,
*January* 21, 1873.

fully returned, and report that when the command of the military district a, Illinois, and Michigan was turned over to me, I was not informed by Willcox that he had any detective in his employ or employed in the command. Willcox never "directed or advised me as his successor to pay" a detective es. On my assuming command of the military district of Indiana, Illinois, igan, several persons, representing themselves to be detectives, made appli- employment, and among them, I suppose, was this William J. Alexander. distinct recollection of William J. Alexander by name; probably if I could might recognize his person. If he is the man I suppose him to be, he was ortunate in his application, and said he had been employed by General Will- I think, by the military authorities at Chicago, as detective. My reply to all others was that I had no authority to employ detectives, and had no pay them, even if I possessed such authority; therefore declined to employ n in that capacity. If Mr. Alexander acted as detective after I assumed , it was not known to me. He never reported his action as detective to me office. I do not recollect any claim for services as detective being presented if such claim was presented, I could not have "admitted it to be just, and paid." when I did not know that General Willcox employed or authorized yment of any detective.

J. S. SIMONSON,
*Colonel, United States Army.*

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
*Washington, April* 10, 1874.

pies.

E. D. TOWNSEND,
*Adjutant-General.*

from the Adjutant-General, dated June 4, 1874, as follows, to wit:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
*Washington, April* 4, 1874.

eferring to letter of the 29th ultimo from this office, and to previous corre- upon the subject of the claim of William J. Alexander for alleged services ve in 1863, I have the honor to communicate for your information the fol- port of Col. O. B. Willcox, Twelfth Infantry, dated the 1st instant:

ovost-marshal, Maj. J. Collins Lyon, Seventeenth Michigan, was directed by e some secret-service work done, and he is the only man who could give nation as to who was the detective employed, and whether by the month or , I cannot tell.

hereabouts of Major Lyon are unknown, and I have failed to find, after ry, any trace of him for reference of these papers to him. I think that r was the detective's name, but I have not the faintest recollection of 'ad- ertainly not of 'directing,' his employment after I was relieved from the by Colonel Simonson.

ecret-service fund was not in my hands, but was a special fund in the hands artermaster."

esent address of Major Lyon, whose name is borne upon the volunteer regis- orge Collins Lyons, and who resigned October 13, 1864, is not known at this t, if living, he might be reached through the adjutant-general of Michigan.

artermaster-General reported as follows on the 6th ultimo:

ecords of this office do not show that W. J. Alexander was employed by Capt. n, acting quartermaster, neither do the money accounts of that officer for and fourth quarters of 1863 show that any payments were made by him to "

Ekin, above referred to, is still in service, being now lieutenant-colonel and uartermaster-general, stationed at Louisville, Ky.

respondence returned by you to this office on the 27th April last is herewith

n, sir, very respectfully, your obedient servant,

E. D. TOWNSEND,
*Adjutant-General.*

Hon. MORTON C. HUNTER,
*United States House of Representatives.*

The affidavits of McPheeters and Mulky, dated December 10, 1873, are filed with papers.

McPheeters testifies: "I know that said Alexander *acted* as a secret detective the *War Department* of the United States in Indiana, and rendered services as s during the summer and fall of 1863."

Mulky's affidavit is as follows, to wit:

STATE OF INDIANA,
*County of Monroe:*

Before me, Zachariah T. Coffin, a justice of the peace, personally appeared Ja B. Mulky, who, being by me duly sworn, upon his oath states that he is and w resident of the town of Bloomington, Monroe County, and State of Indiana, dur the year 1863; that he is, and was at that time, personally acquainted with Will J. Alexander, and knows that he was performing the duties of secret detective the State of Indiana, and especially in the county of Monroe and adjoining count from some time in the month of July up to about the 20th of December, 1863, un and by virtue of an appointment of General Willcox, as he understood, who was t commanding the department of which the State of Indiana was a part; that about 20th of October, 1863, the said William J. Alexander employed him as an attorney to p cure the pay for his services as such detective; that he procured the necessary proof t made, and forwarded it on to the said General Willcox, who was then commanding Department in the State of Tennessee, he having left the Department of the State of diana, as he remembers, somewhere about the 1st to 10th of October, 1863; that application and proofs for the said William J. Alexander's pay was returned to him the said General Willcox, with an order or warrant on General Ekin, then quar master for this department, for the sum of $311, with an indorsement that he co only allow or order him, the said Alexander, pay for his services up to the time the said Willcox, left the Department of Indiana, and directed us to appply to his s cessor, commanding this department, Colonel Simonson, for the residue of his pay such secret detective; that on the receipt of the draft or order for said $311, and the papers returned by said Willcox, with his indorsement thereon, he handed them the said William J. Alexander, who applied for and got the $311 on or about the day of December, 1863, since which time he has not seen them, they having been r laid or lost by the said William J. Alexander, as he is informed and believes; tha said attorney, and according to the instructions of the said Willcox, he applied to said Colonel Simonson for the arrears of pay then due the said Alexander, but was formed by him that he had no funds intrusted to his care with which to pay for s services, and he refused to give any order or make any allowance to the said Alexan for arrears of pay, and suggested that application be made directly to the War Dep ment, as he had no authority in the premises; that no formal application was e made, but that in March, 1865, he presented the matter in person at the War Dep ment in Washington City, and was directed to get the certificate of General O. B. W cox as to his appointment of the said Alexander as such detective, and his allowa of pay, &c.; that he, as the attorney of said Alexander, wrote several letters to said Willcox on the subject but failed to get any answers, and the matter was pas over. He also wrote Colonel Simonson on the same subject, but he also failed to tify to anything that would tend to establish the said Alexander's claims for arrear pay for the reason that he had no official knowledge of his having been appointed such detective, not having been authorized himself to make such appointments.

JAMES B. MULKY

Subscribed and sworn to before me this the 10th day of December, 1873.

ZACHARIAH T. COFFIN,
*Justice of the Peac*

The claim seems to have been presented to Congress December 17, 1875, for the f time.

Claimant states that he entered the service as a detective July 3, 1863, under pointment of General Willcox, and *continued* to serve as such until the 20th day of cember next thereafter, and was to receive, *by agreement* with said Willcox, $125 month and his expenses for his services, and was paid to September 13, 1863, $311, ceiving it in November, 1863. He does not claim that he was employed for *any sp fied time.* General Willcox was relieved September 13, 1863, and was succeeded Colonel Simonson. General Willcox had no authority to employ him permanently a detective, so as to make such employment binding on his successor.

General Willcox, in his letter as copied in the letter of the Adjutant-General, says "his provost-marshal was directed to have some secret-service work done, and is the only man who can give information as to the person or the time, and whether employed by the month or job he does not know."

When General Willcox was relieved of the command his authority ceased, and the employment of a detective by him for his own information, &c., terminated, and claimant had no right to continue to act as a detective, and could not thus make the Government his debtor. This must have been known to claimant. He was bound to take notice of it.

Colonel Simonson, the successor of General Willcox, says he was not advised by General Willcox that any detective was employed, and was not directed or advised to pay any detective for services, which statements are fully corroborated by General Willcox, and claimant does not himself pretend to claim that Colonel Simonson ever employed him or continued him in the secret service. On the contrary, Colonel Simonson says that several persons applied to him for such employment, and supposes that Alexander was one of the applicants, and "was very importunate in his application, and said he had been employed by General Willcox," and Colonel Simonson positively declined to employ him, and states positively that "if Mr. Alexander *acted* as detective after I assumed command, *it was not known to me;* he never reported his action as detective to me or at my office."

Claimant does not pretend that he reported to Colonel Simonson, or had his consent to continue as detective. It is remarkably strange that an intelligent gentleman would act as a detective from September 13, 1863, to December 20, 1863, and never report to his commanding general or officer the result of his secret detective work, when he and such officer were in friendly territory and near to each other. Why he ceased to act as detective on December 20, 1863, when he might have continued longer, according to his theory, is not explained. Claimant states his claim in his affidavit of December 10, 1873, at $797.50 less $311, leaving due $486.50. The Adjutant-General, in his letter of February 7, 1873, states the claim to be for $250. The secret service was not a general service, wherein any one could enter. It was left to the discretion of the commanding officer to select and employ such person or persons as he might deem best, and to reward them in his discretion. The employé was not mustered in nor mustered out. It was not in its nature a general employment.

Your committee can see no just grounds upon which they can support this claim, and therefore recommend that the bill be indefinitely postponed.

The committee therefore adopt said House report as the report of this committee, and recommend that the bill do lie upon the table.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 488.

# WINSHIP B. PETTIE.

FEBRUARY 12, 1886.—Laid on the table and ordered to be printed.

Mr. DOCKERY, from the Committee on Accounts, submitted the following

## REPORT:

[To accompany House Mis. Doc. 106.]

The Committee on Accounts, to which the accompanying resolution was referred, has considered the same, and finds no authority of law by which a House employé can be paid for services rendered before being placed upon the roll or before his position was created by this House.

The committee, therefore, respectfully reports adversely to the resolution, and recommends that it be laid on the table indefinitely.

O

NGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
ssion. } { No. 489.

# LUTHER F. WARDER.

r 12, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

E. ADAMS, from the Committee on Accounts, submitted the following

## REPORT:

[To accompany H. Res. 82.]

*mittee on Accounts, to whom was referred the accompanying resolution for the relief of Luther F. Warder, have duly consid- e same, and respectfully report*

a precedent for the payment provided for in this joint resolution found in the deficiency appropriation bill, first session Forty- Congress, in an appropriation to pay to George McNair the ce between the pay of Postmaster and that of assistant post- of the House of Representatives for the period of time between 1, 1883, and December 5, 1883, he having acted as Postmaster ouse during that time.

ommittee therefore report said joint resolution with a favorable endation.

C

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 490.

# J. L. MILLSPAUGH.

FEBRUARY 12, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. ERMENTROUT, from the Committee on Military Affairs, submitted the following

## REPORT:

[To accompany bill H. R. 2395.]

*The Committee on Military Affairs, to whom was referred House bill* 2395 *have had the same under consideration, and make the following report thereon:*

J. G. C. Lee, major and quartermaster United States Army, at San Antonio, Tex., on the 6th day of November, 1883, drew check No. 124,773 on the assistant treasurer of the United States at New York, payable to the order of J. L. Millspaugh for the sum of $2,679.53, and on the 24th day of November, 1883, said check was regularly indorsed and delivered by the said Millspaugh to the San Antonio National Bank, San Antonio, Tex., and was by said bank sent for collection, and by mail to the National City Bank, New York.

On or about the 14th day of January, 1884, it was ascertained that said check had been lost in transit, and had not been received by said National City Bank, New York.

The drawer, drawee, and the indorsee of said check were duly notified by the said San Antonio National Bank of the loss of said check, and the assistant treasurer of the United States at New York was requested to stop payment thereon, which he did. Application was made to the drawer of said check, and through him to the Quartermaster-General, for the issue of a duplicate of said check, which application was refused upon the sole ground that, being for an amount larger than $2,500, it did not come within the provisions of the act of February 16, 1885, which amends Sec. 3646, Revised Statutes, providing for the issue of duplicate checks by disbursing officers and agents of the United States when the originals have been lost, stolen, or destroyed.

The committee recommend that the bill do pass.

C

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 491.

# THE DES MOINES RIVER LANDS.

FEBRUARY 13, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. PAYSON, from the Committee on the Public Lands, submitted the following

## REPORT:

[To accompany bill H. R. 640.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 640) to quiet the title of settlers on the Des Moines River lands, in the State of Iowa, and for other purposes, have had the same under consideration, and report it back with the recommendation that it do pass.

The following is a copy of the bill:

Whereas it is alleged that all the lands along the Des Moines River, above the mouth of the Raccoon Fork, in the State of Iowa, referred to in the joint resolution of March second, eighteen hundred and sixty-one (twelfth Statutes, page two hundred and fifty-one), as certified to said State improperly by the Department of the Interior, as under the grant of August eighth, eighteen hundred and forty-six, and which were treated in the Harvey settlement, of May twentieth, eighteen hundred and sixty-six, as having been sold or otherwise disposed of by the United States, as mentioned or provided in the act of July twelfth, eighteen hundred and sixty-two (twelfth Statutes, page five hundred and forty-three), to extend the grant of eighteen hundred and forty-six, and for which lands the State, in the Harvey settlement, received and accepted indemnity lands, as provided she might do by the act of eighteen hundred and sixty-two, which settlement was fully accepted by the State legislature March thirty-first, eighteen hundred and sixty-eight, and confirmed by Congress March third, eighteen hundred and seventy-one, are public lands, as held by the Department of the Interior after Secretary Browning's decision of May ninth, eighteen hundred and sixty-eight, and that by such settlement Iowa, in accepting the indemnity lands as referred to, is estopped from all claim to the lands in place that were improperly certified as river land, or under the act of eighteen hundred and forty-six; and

Whereas there are many settlers who, believing that the said lands were public lands, entered upon the same in good faith and with the consent of the Department of the Interior, as pre-emptions and homesteads; and since so doing, and after receiving patents, have been held by the courts as trespassers, or that the lands were reserved from settlement: Therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That all the lands improperly certified to Iowa by the Department of the Interior under the act of August eighth, eighteen hundred and forty-six, as referred to in the joint resolution of March second, eighteen hundred and sixty-one, for which indemnity lands were selected and received by the State of Iowa, as provided in the act of eighteen hundred and sixty-two, are, and are hereby declared to be, public lands of the United States: *Provided*, That the title of all bona fide settlers under color of title from the State of Iowa and its grantees, or the United States and its grantees, which do not come in conflict with pre-emption or homestead claimants are hereby ratified, confirmed, and made valid; *Provided further*, That the claims of all persons who, with intent, in good faith, to obtain title thereto under the pre-emption or homestead laws of the United States, entered or remained upon any tract of said land prior to January, eighteen hundred and eighty, not exceeding one hundred and sixty acres, are hereby confirmed and made valid in them, their heirs or their proper assigns; and upon due proof thereof, and payment of the usual price or fees, where the same has not been paid, shall be carried to patent: *Provided further*, That the title of all bona fide claimants under color of title from the State of Iowa and its

grantees, or the United States and its grantees, which do not come in conflict wit persons who, with intent, in good faith, to obtain title thereto under the pre-emptio or homestead laws of the United States, settled upon the said lands prior to January eighteen hundred and eighty, are confirmed and made valid.

SEC. 2. That it is hereby made the duty of the Attorney-General, within ninet days after the passage of this act, to institute, or cause to be instituted, such suit o suits, either in law or equity, or both, as may be necessary and proper to assert an protect the title of the United States to said lands, and remove all clouds from it title thereto; and until such suits shall be determined, and Congress shall so provide no part of said lands shall be open for settlement or sale except as hereinbefore pro vided. And in any suits so instituted any person or persons in possession of or claim ing title to any tract or tracts of land under the United States involved in such suit may, at his or their expense, unite with the United States in the prosecution of such suits.

In different forms, but to the same end, the proposed legislation ha been before Congress for many years, and with these results:

In the Forty-third Congress, second session, in the House, Mr. Or introduced H. R. 1142, indemnifying settlers on Des Moines River lands which was reported from the Committee on the Public Lands, consid ered, and passed.

At the same session it was reported adversely from the Senate Com mittee on Public Lands.

In the Forty-fifth Congress, second session, in the Senate, Senato McDonald introduced S. 1330; and in the third session of that Con gress the bill was recommitted and reported back favorably.

The report in the Forty-sixth Congress, in the Senate, was made b Garland, adversely; McDonald making the minority report, favorabl to the bill.

At the same session, in the House. Mr. Converse, from the Committe on the Public Lands, reported the bill back favorably; Ketcham, of New York, making a minority report.

In the Forty-seventh Congress Mr. Hepburn, from the Committee o the Public Lands, reported the bill back favorably, and it passed th House.

In the Forty-eighth Congress the bill was reported favorably in th Senate by Mr. Plumb, from the Committee on Public Lands, and passe the Senate.

In the House, at the same session, the bill was acted upon favorabl by the Committee on the Public Lands and reported favorably, but wa not reached, owing to the proximity of the close of the session.

The history of the case is very fully set out in a report made by Sen ator Plumb for the Committee on Public Lands in the Senate, first ses sion Forty-eighth Congress, which we largely use in this report.

On the 8th day of August, 1846 (9 Stat. at L., pp. 77, 78), Congres granted to Iowa one-half of the unsold public land lying in a strip 1 miles wide, adjacent to the Des Moines River, to be selected in odd numbered sections, to aid in the improvement of the navigation of th river to the Raccoon Forks thereof. The river enters the State a shor distance east of the northwest corner, and runs thence diagonally acros it to the southeast corner. The capital of the State (Des Moines) i about mid-length of the river, and is situated at the confluence of th Raccoon and Des Moines Rivers. The lands in question lie in the stri north and west of the capital.

The act of August 8, 1846, above referred to, is as follows:

AN ACT granting certain lands to the Territory of Iowa to aid in the improvement of the navigatio of the Des Moines River, in said Territory.

*Be it enacted by the Senate and House of Representatives of the United States of Ameri in Congress assembled,* That there be, and hereby is, granted to said Territory of Iowa for the purpose of aiding said Territory to improve the navigation of the Des Moine

River from its mouth to the Raccoon Fork (so called), in said Territory, one equal moiety, in alternate sections, of the public lands (remaining unsold and not otherwise disposed of, incumbered, or appropriated), in a strip five miles in width on each side of said river, to be selected within said Territory by an agent or agents to be appointed by the governor thereof, subject to the approval of the Secretary of the Treasury of the United States.

SEC. 2. *And be it further enacted*, That the lands hereby granted shall not be conveyed or disposed of by said Territory, nor by any State to be formed out of the same, except as said improvement shall progress; that is, the said Territory or State may sell so much of said lands as shall produce the sum of thirty thousand dollars, and then the sales shall cease until the governor of said Territory or State shall certify the fact to the President of the United States that one-half of said sum has been expended upon said improvements, when the said Territory or State may sell and convey a quantity of the residue of said lands sufficient to replace the amount expended, and thus the sales shall progress as the proceeds thereof shall be expended, and the fact of such expenditure shall be certified as aforesaid.

SEC. 3. *And be it further enacted*, That the said river Des Moines shall be and forever remain a public highway for the use of the Government of the United States, free from any toll or other charge whatever, for any property of the United States or persons in their service passing through or along the same: *Provided always*, That it shall not be competent for the said Territory, or future State of Iowa, to dispose of said lands, or any of them, at a price lower than, for the time being, shall be the minimum price of other public lands.

SEC. 4. *And be it further enacted*, That whenever the Territory of Iowa shall be admitted into the Union as a State, the lands hereby granted for the above purpose shall be and become the property of said State for the purpose contemplated in this act, and for no other: *Provided*, The legislature of the State of Iowa shall accept the said grant for the said purpose.

Approved August 8, 1846.

Accompanying the report of the committee of the House of Representatives in favor of the bill, the following letter of the Commissioner of the General Land Office, in reply to inquiries touching the effect of and scope of the proposed legislation, was submitted:

GENERAL LAND OFFICE, *May* 5, 1846.

SIR: In answer to your inquiry, I have the honor to state that the amount of unsold land within 5 miles on each side of the Des Moines River, from its mouth to the Raccoon Fork, proposed to be granted to the Territory of Iowa by House bill No. 106, is estimated at 261,000 acres. There have been sold in the Territory of Iowa, to the 1st of January, 1846, 1,730,050 acres, and the amount of the purchase-money received by the United States to the same date is $2,164,102.

Very respectfully, your obedient servant,

JAMES SHIELDS,
*Commissioner.*

Hon. A. C. DODGE,
*House of Representatives.*

On the 17th day of October, 1846, Mr. James H. Piper, Acting Commissioner of the General Land Office, addressed the following letter to the register and receiver of the land office at Iowa City relating to this grant:

GENERAL LAND OFFICE, *October* 17, 1846.

GENTLEMEN: By the first section of the act of Congress approved 8th of August, 1846, entitled "An act granting certain lands to the Territory of Iowa to aid in the improvement of the navigation of the Des Moines River, in said Territory," it is enacted "that there be, and hereby is, granted to the Territory of Iowa, for the purpose of aiding said Territory to improve the navigation of the Des Moines River, from its mouth to the Raccoon Fork (so-called), in said Territory, one equal moiety, in alternate sections of the public lands (remaining unsold and not otherwise disposed of, encumbered, or appropriated), in a strip five miles in width on each side of said river, to be selected within said Territory by an agent or agents, to be appointed by the governor thereof, subject to the approval of the Secretary of the Treasury of the United States."

This grant, you perceive, affects the land 5 miles in width on each side of the Des Moines, from the southern boundary of your district to the Raccoon Fork of the Des Moines, as shown by the inclosed diagram. No action can be had by you in this matter, however, till you are advised by the governor whether he will select the sections

with the odd or those with the even numbered. As soon as you are so advised you will please reserve from sale or entry of any kind all the unsold and unappropriated lands in the sections selected by him till further orders from this office.

Very respectfully, your obedient servant,

JAMES H. PIPER,
*Acting Commissioner.*

REGISTER and RECEIVER,
*Iowa City, Iowa.*

On the 9th of January, 1847, the legislature of Iowa accepted the grant, and appointed agents to select the lands embraced in the grant, under the direction of Mr. Piper, Acting Commissioner of the General Land Office. No lands were selected north and west of the Raccoon Fork at this time. This construction of the grant was acquiesced in for some time, and the country north of Raccoon Fork was occupied by settlers.

On the 23d day of February, 1848, Richard M. Young, Commissioner of the General Land Office, wrote the board of public works, which had been created by a joint resolution of the general assembly of Iowa, approved January 9, 1847, for the purpose of carrying out the trust and improving the Des Moines River, in which he placed upon the grant of 1846 a construction different from that of Acting Commissioner Piper. The letter of Mr. Young is as follows:

A question has arisen as to the extent of the grant made to Iowa by the act of 8th August, 1846, and the opinion of this office has been requested on that point.

By the terms of the law the grant is of an equal moiety in alternate sections of the public lands remaining unsold and not otherwise disposed of, incumbered or appropriated, in a strip 5 miles in width on each side of the river, to be selected within said territory, &c., and the proceeds are to be applied in the improvement of the navigation of that river from its mouth to the Raccoon Forks. Hence the State is entitled to the alternate sections within 5 miles of the Des Moines River, throughout the whole extent of that river, within the limits of Iowa.

Very respectfully, your obedient servant,

RICHARD M. YOUNG,
*Commissioner.*

CHARLES CORKERY, Esq.,
*Secretary Board of Public Works, Fairfield, Iowa.*

Notwithstanding the opinion expressed in the above letter of the Commissioner as to the extent of the grant, the President of the United States, on the 19th day of June, 1848, proclaimed the lands for sale above the fork of the river, and 25,000 acres were sold and pre-empted thereunder, against which the board of public works protested in a letter to the Commissioner, dated September 18, 1848. This was followed by a remonstrance from the Senators and Representatives of Iowa then in Washington, including A. C. Dodge, the author of the bill, and others who had asked the passage of the bill on the representation that the grant did not extend above Raccoon Fork, and who had acquiesced in that decision for two years, dated January 8, 1849, addressed to Hon. Robert J. Walker, Secretary of the Treasury, against the construction of the act which limited the grant to the lands lying below the Raccoon Fork.

The Secretary, in a reply dated March 2, 1849, agreed with them, and asserted that the grant extended on both sides of the river, from its mouth to its source. In pursuance of this letter, Mr. Young, the Commissioner of the General Land Office, on the 1st of June following, directed the register and receiver at Iowa City to withhold from sale the lands north of the Fork. The letter is as follows:

GENERAL LAND OFFICE, *June* 1, 1849.

GENTLEMEN: The Secretary of the Treasury having decided that the grant to the te of Iowa under the act of the 8th of August, 1846, extended along the Des Moines

River to its source, and that it did not stop at the Raccoon Fork, as this office had previously decided, you are hereby directed to withhold from sale all lands situated on the odd-numbered sections within 5 miles on each side of that river above the Raccoon Fork. Inclosed I send you a diagram, upon which the State selections above that point are colored yellow.

I have also to request that you will make out a list, showing the sales and locations which have been made within these selections, as it is designed to endeavor to procure some legislative action on the part of Congress confirmatory of them. The diagram inclosed extends 83 north, 26 west, being as far as the surveys have progressed in that direction.

I am, very respectfully, your obedient servant,

R. M. YOUNG,
*Commissioner.*

REGISTER and RECEIVER,
*Iowa City, Iowa.*

This construction was sustained by the opinion of the then Attorney-General, Mr. Johnson, rendered July 19, 1850, addressed to the President, the syllabus of which is as follows:

The grant of alternate sections of land on the Des Moines River to Iowa by the act of 8th August, 1846, extends the entire length of the stream, as well above as below the Raccoon Fork. The purpose of the grant was to aid Iowa to improve the navigation of the said river from its mouth to the Raccoon Fork, but the grant itself is not limited to the section to be thus improved.

But the question was disposed of by a former Secretary of the Treasury while the Land Office belonged to his Department, and the subject is now *res adjudicata* and beyond the control of the Secretary of the Interior. (Bank of the Metropolis *vs.* The United States, 15 Peters, 401.)

By act of Congress approved March 3, 1849, the Department of the Interior was provided for and given jurisdiction (among other things) over the public lands. Hon. Thomas Ewing, of Ohio, became Secretary of the Interior on the 8th day of March, on the accession of the administration of President Taylor. Shortly after his accession to office the construction placed by the Secretary of the Treasury, Mr. Walker, upon the act in question, was challenged, and upon the 6th day of April, 1850, he reversed the ruling of Mr. Walker, and held that the grant was limited to the lands lying below the Raccoon Fork, and on the same day he addressed to the Commissioner of the General Land Office the following letter:

DEPARTMENT OF THE INTERIOR,
*Washington, April* 6, 1850.

SIR: Having considered the question submitted to me connected with the claim of the State of Iowa to select under the act of August 8, 1846, lands for the improvement of the Des Moines River, I am clearly of the opinion that you cannot recognize the grant as extending above the Raccoon Fork without the aid of an explanatory act of Congress. It is clear to my mind, from the language of the act of August 8, 1846, itself, that it was not the intent of the act to extend it farther. My construction is confirmed by the report of the committee and the accompanying papers. If in any report to Congress you have recognized the grant as extending to the source of the river, it will be proper to correct it, that Congress, if they see fit, may extend the grant. The opinion expressed by the late Secretary of the Treasury on the subject is entitled to great respect, but I cannot concur in it, and the law not having been carried into effect by him, his opinion, merely expressed, is open for reversion.

The lists of selections and other papers submitted with your letter of the 13th ultimo are herewith returned.

As Congress is now in session, and may take action on the subject, it will be proper, in my opinion, to postpone any immediate steps for bringing into market the lands embraced in the State's selections.

I am, sir, very respectfully, your obedient servant,

T. EWING,
*Secretary.*

The COMMISSIONER OF THE GENERAL LAND OFFICE.

On the 15th of August, 1850, Mr. Ewing was succeeded by Thomas M. T. McKennan, of Pennsylvania, who in turn was succeeded on the 12th of September by Alexander H. H. Stuart, of Virginia.

Mr. Stuart, on consideration of the question, arrived at the same conclusion reached by Mr. Ewing, that the grant of August 8, 1846, did not extend above the Raccoon Fork; but believing the question to be more of a judicial than an executive one, he permitted the State of Iowa to make selections above the Raccoon Fork.

The following letter to the Commissioner of the General Land Office explains his position:

DEPARTMENT OF THE INTERIOR,
*Washington, October* 29, 1851.

SIR: I herewith return all the papers in the Des Moines case, which were recalled from your office about the first of the present month. I have reconsidered and carefully revised my decision of the 26th of July last, and in doing so find that no decision which I can make will be final, as the question involved partakes more of a judicial than of an executive character, which must ultimately be determined by the judicial tribunals of the country; and although my own opinion on the true construction of the grant is unchanged, yet, in view of the great conflict of opinion among the executive officers of the Government, and also in view of the opinions of several eminent jurists which have been presented to me in favor of the construction contended for by the State, I am willing to recognize the claim of the State, and to approve the selections without prejudice to the rights, if any there be, of other parties, thus leaving the question as to the proper construction of the statute entirely open to the action of the judiciary.

You will please, therefore, as soon as may be practicable, submit for my approval such lists as have been prepared, and proceed to report for like approval lists of the alternate sections claimed by the State of Iowa above the Raccoon Fork as far as the surveys have progressed or may hereafter be completed and returned.

I am, sir, very respectfully, your obedient servant,

ALEX. H. H. STUART,
*Secretary.*

The COMMISSIONER OF THE GENERAL LAND OFFICE.

Mr. Stuart had also requested the opinion of the Attorney-General upon the same subject, and the syllabus of the opinion of Attorney-General Crittenden, rendered in response to this request, of date June 30, 1851, and reported in vol. 5, Opinions of Attorneys-General, page 300, is as follows:

The act of Congress of 8th August, 1846, granting to the Territory of Iowa, for the purpose of aiding to improve the navigation of the Des Moines River from its mouth to the Raccoon Fork, one equal moiety in alternate sections of the public lands in a strip 5 miles in width on each side of said river, to be selected, &c., subject to the approval of the Secretary of the Treasury, did not include the land above Raccoon Fork.

The opinion of the Secretary of the Treasury on this subject, expressed on the 2d of March, 1849, has no obligatory effect on the power of his successor to reject the selections made under it in the event of a disagreement as to the proper construction of the act.

Nor was the opinion of Attorney-General of July 19, 1850, more than advisory. No law makes it binding upon the Secretary of the Interior.

Under this ruling of Secretary Stuart the lands north of Raccoon Fork, for a distance of 80 miles, were certified as inuring to Iowa under the act of 1846, and the following is Mr. Stuart's approval thereof:

DEPARTMENT OF THE INTERIOR,
*October* 30, 1851.

The selections embraced in the within list (No. 3) are hereby approved, in accordance with the view expressed in my letter of the 29th instant to the Commissioner of the General Land Office, subject to any rights which may have existed at the time the selections were made known to the land office by the agents of the State, it being expressly understood that this approval conveys to the State no title to any tract or tracts which may have been sold or otherwise disposed of prior to the receipt by the local land officers of the letter of the Commissioner of the General Land Office communicating the decision of Mr. Secretary Walker, to the effect that the grant extended above the Raccoon Fork.

ALEX. H. H. STUART, *Secretary.*

And the lands embraced in the bill under consideration are of these lands above the Raccoon Fork, the subject of the contrary decisions referred to and of more to come.

The State of Iowa had, meanwhile, selected a portion of these lands under the grant to her of 500,000 acres on her admission as a State, for purposes of internal improvement; but on the 6th of January, 1854, the Commissioner of the General Land Office formally withdrew the approval of the Land Department of the selection of such of the lands as fell within the river grant of 1846, according to the opinion of the Secretary of the Treasury, March 2, 1849, and the Secretary of the Interior, October 29, 1851.

On the 25th day of March, 1856, the Commissioner of the General Land Office, in a case before him, decided that the grant of 1846 did not extend above Raccoon Fork. On appeal, Mr. McClelland, Secretary of the Interior, successor to Mr. Stuart, sustained the Commissioner, but he referred the matter to the Attorney-General, Mr. Cushing, who, under date of May 10, 1856, in an elaborate opinion, sustained the Commissioner upon the questions of law and fact involved, but in view of the former conflicting rulings of the Department touching the question, he suggested conformity to the ruling of Mr. Stuart, if the State of Iowa would agree to release, &c.

We copy the syllabus of the opinion, reported in volume 7, page 691, Opinions of Attorneys-General:

Congress in 1846, for the purpose of improving the navigation of the Des Moines River from its mouth to the Raccoon Fork, granted to the Territory of Iowa alternate sections of land in a strip 5 miles in width on each side of said river.

As construed by the Government at the time, and as accepted by the State of Iowa, this grant extended only to the Raccoon Fork.

Subsequently to this, the Secretary for the time being (Walker) expressed an opinion that the grant extended up the river to its source, but went out of office the next day without this opinion having received execution. The succeeding Secretary (Ewing) entertained a different opinion, and refused to approve selections above the fork.

Reference being made to the Attorney-General (Johnson), he expressed opinion that the grant extended to the source of the river, but the Secretary did not act on that opinion.

Reference was then made to the succeeding Attorney-General (Crittenden), who held that the grant did not extend above the fork.

The Secretary (Stuart) entertained and officially expressed the same opinion; but without changing his opinion, and in his order expressly saying it was unchanged, he ordered selections to be allowed above the fork up to the north boundary of the State.

On question of duty of the present Secretary (McClelland), it is held—

I. The true construction of the act and its intention were to grant lands from the mouth of the river to Raccoon Fork and no farther.

II. Even if by construction heretofore the grant extended above the fork, it cannot pass beyond the limits of the State of Iowa into Minnesota.

III. The opinion expressed by Secretary Walker being opinion only, did not conclude any of his successors or bind the Government.

IV. The action of Secretary Stuart cannot be reversed by his successor in so far as regards selections made and approved by him, but is not obligatory any further on himself or his successors.

V. The opinion of the Attorney-General for the time being is in terms advisory to the Secretary who calls for it; but it is obligatory as the law of the case, unless, on appeal by such Secretary to the common superior of himself and the Attorney-General, namely, the President of the United States, it be by the latter overruled.

VI. In the present state of this question the actual Secretary is free to elect either to act on the opinion of Secretary Walker as construed by Secretary Stuart, and approve up to the northern boundary of the State, but no higher, or to return to the true and original construction of the act refusing to allow further selections above Raccoon Fork.

VII. But the Secretary cannot lawfully acquiesce in and abide by the rule of action of Secretary Stuart unless that rule be also accepted by the State of Iowa; it no more binds one than the other, and unless the State relinquishes all claim to land above its north boundary the Secretary is bound to refuse to permit selections above Raccoon Fork.

Secretary McClelland, however, declined to make any further certification of lands, and also declined to perform any further act concerning those already certified by his predecessor.

The quantity of lands lying above the Raccoon Fork certified up to this date was 271,572.24, being about one-half the lands within the 5-mile limits of the seventh river grant above the forks.

In January, 1849, the State of Iowa created a board of public works, and undertook the improvement of the navigation of the river through the board, and did an amount of labor thereon and sold portions of the land.

On the 9th day of June, 1854, the State contracted with a corporation, known as the Des Moines Navigation and Railroad Company, to complete the improvement, estimated to cost $1,300,000, and agreed to convey to the company all the land then or thereafter to be certified to Iowa for improvement purposes.

When the Commissioner of the General Land Office and the Secretary of the Interior, on the 10th day of November, 1856, declined to certify any more lands under the grant, the company declined to proceed with the work, and dispute arose between the State and the company, which, by joint resolution of the Iowa legislature, approved March 22, 1858, was settled; the State conveying to the company *all the lands* certified to the State at that date, under the act of 1846, in payment of all claims of the company against the State on account of the improvement, and the improvement of the navigation of the river was thereafter abandoned.

On March 22, 1858, the legislature of the State of Iowa, for the purpose of effecting a settlement with the navigation company, passed the following act:

JOINT RESOLUTION containing propositions for settlement with the Des Moines Navigation and Railroad Company.

Whereas the Des Moines Navigation and Railroad Company have heretofore claimed and do now claim, to have entered into certain contracts with the State of Iowa, by its officers and agents, concerning the improvement of the Des Moines River in the State of Iowa; and whereas disagreements and misunderstandings have arisen, and do now exist, between the State of Iowa and said company, and it being conceived to be the interests of all parties concerned to have said matters and all matters and things between said company and the State of Iowa settled and adjusted: Now therefore,

*Be it resolved by the general assembly of the State of Iowa*, That for the purpose of such settlement, and for that purpose only, the following propositions are made by the State to said company: That the said company shall execute to the State of Iowa full releases and discharges of all contracts, agreements, and claims with or against the State, including rights to water-rents which may have heretofore or do now exist, and all claims of all kinds against the State of Iowa and the lands connected with the Des Moines River improvement, excepting such as are hereby by the State secured to the said company, and also surrender to said State the dredge-boat and its appurtenances, belonging to said improvement; and the State of Iowa shall, by its proper officers, certify and convey to the said company *all lands granted by an act of Congress approved August* 8, 1846, to the then Territory of Iowa, to aid in the improvement of the Des Moines River, which have been approved and certified to the State of Iowa by the General Government, saving and excepting all lands sold or conveyed, or agreed to be sold or conveyed, by the State of Iowa by its officers and agents prior to the 23d day of December, 1853, under said grant; *and said company, or its assignees, shall have right to all of said lands so herein granted to them as fully as the State of Iowa could have, under or by virtue of said grant*, or in any manner whatever, with full power to settle all errors, false locations, omissions, or claims in reference to the same, and all pay or compensation therefor by the General Goverment, but at the cost and charges of said company; and the State to hold all the balance of said lands, and all rights powers, and privileges under and by virtue of said grant, entirely released from any claim by or through said company; and it is understood that among the lands excepted and not granted by the State to said company, are 25,487.87 acres lying immediately above Raccoon Forks, supposed to have been sold by the General Gov

ernment, but claimed by the State of Iowa; and it is further agreed that said company release and convey to the State of Iowa, or its representatives, all materials of every kind and description, prepared for or intended for the construction of locks or dams in said improvement, wheresoever the same may be, and the State shall take the existing contracts, but no other liabilities of any name or nature excepting as herein provided, for constructing or repairing the works on said improvement at Keosauqua, Bentonsport, Plymouth, and Croton, and no other or different, with all liabilities and advantages arising upon said contracts and percentage retained thereon, excepting that the company shall pay all estimates for work done or material prepared up to this date, beyond the percentage retained from the contractors under their agreements; and the said company shall be discharged from all claims against the State or the said improvement, or any of its officers or agents, arising from or growing out of any agreement or liability prior to the 9th day of June, 1854; and said company shall be discharged from all liability for the claims of the officers of the State for services or salaries. The said company hereby agree to pay the State the sum of twenty thousand dollars, which sum shall be paid to the order of the commissioner of the Des Moines River improvement as fast as he may require the same, to liquidate existing liabilities against said Des Moines River improvement, on thirty days' notice given to said company at their office in the city of New York; and any bonds or certificates of indebtedness against said improvement not exceeding in amount the sum of eleven thousand dollars, which are now due and unpaid, are to be received in part payment of said sum of twenty thousand dollars: *Provided*, That no liabilities assumed by the State in this contract shall be a charge against the State in her sovereign capacity, but all such liabilities, if any, shall be chargeable upon and payable out of the remaining lands belonging to the Des Moines River grant: *And provided also*, That if Congress shall permit a diversion of the lands of said Des Moines River grant, or the title thereto shall become vested in the State, so as to become subject to grant, the said remaining lands, after the payment of all the liabilities as aforesaid, against said improvement and the completion of such locks and dams in the Des Moines River as the legislature shall direct, shall be granted to the Keokuk, Fort Des Moines and Minnesota Railroad Company, to aid in the construction of a railroad up and along the valley of the Des Moines River, upon such terms and in such manner as the legislature may provide; one-fourth of which said lands shall be applied by said company to aid in the construction of said road above the city of Des Moines: *And provided further*, That if the Des Moines Navigation and Railroad Company shall ratify and accept these propositions for a contract by filing a written acceptance thereof in the office of secretary of state within sixty days from the passage of this joint resolution, then this contract shall be in force and bind both of the parties thereto.

Approved March 22, 1858.

In pursuance of this act of the legislature a settlement was effected in supposed compliance with its terms, and the governor conveyed to the Navigation Company, during the year 1858, all the lands then certified to the State as belonging to the grant of August 8, 1846, by several deeds reciting and describing the particular tracts of land so conveyed, and also by one general deed, broad enough in its terms to cover *all the lands granted* and certified to the State of Iowa, saving and excepting all of said lands sold and conveyed by the State prior to the 23d day of December, 1853, under said grant. The general deed was in the form and language following:

This indenture, made this 18th day of May, one thousand eight hundred and fifty-eight, by and between the State of Iowa, party of the first part, and the Des Moines party of the first part, for and in consideration of one dollar paid by the parties of the Navigation and Railroad Company, parties of the second part, witnesseth, that the said second part, and in pursuance of the contracts and agreements between the State of Iowa and the said Des Moines Navigation and Railroad Company for the improvement of the navigation of the Des Moines River, in the State of Iowa, and in pursuance of a joint resolution of the general assembly of the State of Iowa, approved the 22d day of March, 1858, does hereby sell, grant, bargain, and convey to the said Des Moines Navigation and Railroad Company the following-described lands, to wit: *All lands granted by an act of Congress approved August 8, 1846*, to the then Territory of Iowa, to aid in the improvement of the Des Moines River, which have been approved and certified to the State of Iowa by the General Government, saving and excepting all lands sold and conveyed or agreed to be sold or conveyed by the State, by its officers and agents, prior to the 23d day of December, 1853, under said grant; and said company or its assigns shall have right to all of said lands so herein granted to them as fully as the State of Iowa could have under or by virtue of said grant, or in any manner what-

ever, with full power to settle all errors, false locations, omissions, or claims in reference to the same, and all pay or compensation therefor by the General Government, but at the costs and charges of said company, and the State to hold all the balance of said lands, and all rights, powers, and privileges under and by virtue of said grant entirely released from any claim by or through said company. And it is understood that among the lands excepted and not granted by the State to said company are 25,487.87 acres lying immediately above Raccoon Fork, supposed to have been sold by the General Government, but claimed by the State of Iowa.

To have and to hold the above-described lands and each and every parcel thereof, with all the rights, privileges, immunities, and appurtenances of whatever nature thereunto belonging or appertaining, unto the Des Moines Navigation and Railroad Company, their successors and assigns forever in fee-simple.

In testimony whereof, I, Ralph P. Lowe, governor of the State of Iowa, have caused the great seal of the State of Iowa to be hereunto affixed.

Given under my hand at the city of Des Moines, the day and year first above written, and of the State of Iowa.

[L. S.] RALPH P. LOWE.

By the governor:
ELIJAH SELLS, *Secretary of State*,
By JNO. M. DAVIS, *Deputy*.

This is the deed under which the Navigation Company and its assigns claim. The 25,487.87 acres mentioned as excepted are lands sold by the United States at the Iowa City land office in 1848, and which were never certified to the State under the grant of 1846. These titles have never been seriously questioned, and are not here drawn in controversy.

In May, 1856, Congress granted lands to the State of Iowa to aid in constructing four railroads across the State from east to west. Three of the lines crossed the land in question at and above Raccoon Fork. The law granting the land (11 United States Statutes at Large, pp. 9 and 10) is as follows:

AN ACT making a grant of lands to the State of Iowa in alternate sections to aid in the construction of certain railroads in said State.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That there be, and is hereby, granted to the State of Iowa, for the purpose of aiding in the construction of railroads from Burlington, on the Mississippi River, to a point on the Missouri River, near the mouth of the Platte River; from the city of Davenport, via Iowa City and Fort Des Moines, to Council Bluffs; from Lyons City northwesterly to a point of intersection with the main line of the Iowa Central Air-Line Railroad, near Maquoketa, thence on said main line, running as near as practicable to the forty-second parallel across the said State to the Missouri River, from the city of Dubuque to a point on the Missouri River near Sioux City, with a branch from the mouth of the Tete Des Morts to the nearest point on said road, to be completed as soon as the main road is completed to that point, every alternate section of land, designated by odd numbers, for six sections in width on each side of each of said roads. But in case it shall appear that the United States have, when the lines or routes of said roads are definitely fixed, sold any sections, or any parts thereof, granted as aforesaid, or that the right of pre-emption has attached to the same, then it shall be lawful for any agent or agents, to be appointed by the governor of said State, to select, subject to the approval of the Secretary of the Interior, from the lands of the United States nearest to the tiers of sections above specified, so much land in alternate sections or parts of sections as shall be equal to such lands as the United States have sold or otherwise appropriated, or to which the rights of pre-emption have attached as aforesaid; which lands (thus selected in lieu of those sold and [to] which pre-emption rights have attached, as aforesaid, together with the sections, and parts of sections, designated by odd numbers as aforesaid, and appropriated as aforesaid) shall be held by the State of Iowa for the use and purpose aforesaid: *Provided*, That the lands to be so located shall in no case be further than fifteen miles from the lines of said roads, and selected for and on account of each of said roads: *Provided further*, That the lands hereby granted for and on account of said roads severally shall be exclusively applied in the construction of that road for and on account of which such lands are hereby granted, and shall be disposed of only as the work progresses, and the same shall be applied to no other purpose whatsoever: *And provided further*, That any and all lands heretofore reserved to the United States, by any act of Congress, or in any other manner by competent authority, for the purpose of aiding in any object of internal

improvement, or for any other purpose whatsoever, be, and the same are hereby, reserved to the United States from the operation of this act, except so far as it may be found necessary to locate the routes of said railways through such reserved lands, in which case the right of way only shall be granted, subject to the approval of the President of the United States.

SEC. 2. *And be it further enacted*, That the sections and parts of sections of land which, by such grants, shall remain to the United States within six miles on each side of said roads, shall not be sold for less than double the minimum price of public lands when sold; nor shall any of said lands become subject to private entry until the same have been first offered at public sale at the increased price.

SEC. 3. *And be it further enacted*, That the said lands hereby granted to the said State shall be subject to the disposal of the legislature thereof, for the purpose aforesaid, and no other; and the said railroads shall be and remain public highways for the use of the Government of the United States, free from toll or other charge upon the transportation of any property or troops of the United States.

SEC. 4. *And be it further enacted*, That the lands hereby granted to said State shall be disposed of by said State only in manner following: that is to say, that a quantity of land not exceeding one hundred and twenty sections for each of said roads, and included within a continuous length of twenty miles of each of said roads, may be sold; and when the governor of said State shall certify to the Secretary of the Interior that any twenty continuous miles of any of said roads is completed, then another quantity of land hereby granted, not to exceed one hundred and twenty sections for each of said roads having twenty continuous miles completed as aforesaid, and included within a continuous length of twenty miles of each of such roads, may be sold, and so from time to time until said roads are completed; and if any of said roads are not completed within ten years, no further sale shall be made, and the lands unsold shall revert to the United States.

SEC. 5. *And be it further enacted*, That the United States mail shall be transported over said roads, under the direction of the Pot-Office Department, at such price as Congress may by law direct: *Provided*, That until such price is fixed by law, the Postmaster-General shall have the power to determine the same.

Approved May 15, 1856.

The State of Iowa, by an act of the legislature approved July 14, 1856, conferred the lands granted by this act of Congress upon four railroad companies, and the Mississippi and Missouri River Railroad Company, the Central Air-Line Railroad Company, and the Dubuque and Pacific Railroad Company received the grants touching the land under consideration. These companies claimed the odd-numbered sections within 5 miles of the Des Moines River within their limits (15 miles of their location) as inuring under the grant of May 15, 1856, for railroad purposes, and at the December term, 1859, of the Supreme Court of the United States the question came before the court in the case of Litchfield against the Dubuque and Sioux City Railroad, and the court unanimously held that the grant of 1846 was limited to the Raccoon Fork, and that the selection and certification of lands above that point, under that act, were unauthorized and passed no title to Litchfield, who was grantee of the Des Moines Navigation and Railroad Company. The case is reported in 23 Howard Reports, 66.

In this case the court did not pass upon the defendant's title; it simply held that the plaintiff had no title, and dismissed his bill. Yet, upon the belief that the defendant took title by virtue of the railroad grant of May 15, 1856, and the action of the Iowa legislature, and that such was the determination of the court, the Land Department treated these lands as falling to the railroads crossing the grant, as the subjoined copy of the following correspondence will show:

DEPARTMENT OF INTERIOR, GENERAL LAND OFFICE,
*Washington, D. C., February* 23, 1863.

SIR: Herewith I have the honor to lay before you a map exhibiting that portion of the route of the Des Moines improvement interest as claimed north of the Raccoon, under the original grant by act of 8th August 1846 (vol. 9, page 77), and also the lines of three railroads which traverse the same from east to west, in virtue of the railroad

grant to the State by act of 15th of May, 1856 (vol. 11, page 9), and in reference to tl matter respectfully submit the following:

1st. Under a construction given to the Des Moines grant of 8th August, 1846, the was certified, conditionally, by your predecessors, tracts above the Raccoon Forl amounting in the aggregate to acres..... 271,572.

But in the case of the Dubuque and Pacific Railroad Company *v.* Litchfield, 23 Howard, the Supreme Court settled the principle whereby the Des Moines improvement claim above the Raccoon Forks, under said act of 8th August, 1846, was set aside and rejected. 2d. The State of Iowa thereupon came forward, under the railroad grant by act of 15th May, 1856 (vol. 11, page 9), and selects, of the same lands mentioned under the first head, the quantity of acres..... 202,509.

Leaving an area of acres of said Des Moines selections not interfered with by the railroads..... 69,062.

The railroad selections thus made and entered in lists No. 33 to 42, inclusive, her with, embrace "sections in place" and "indemnity" selections for the Dubuque an Sioux City, the Iowa Central Air-Line, the Mississippi and Missouri Railroads, accor ing to Schedule B, herewith.

The conflict of these railroad selections with the Des Moines was presented to you predecessor in report dated March 18, 1862, in connection with the joint resolutic approved March 2, 1861 (Statutes 1860–'61, page 251), which declares "that all tl titles which the United States still retain in the tracts of land along the Des Moin River, and above the mouth of the Raccoon Forks thereof, in the State of Iowa, whic have been certified to said State improperly by the Department of the Interior as pa of the grant by act of Congress approved August eighth, eighteen hundred and fort six, and which is now held by *bona fide* purchasers under the State of Iowa, be, an the same is hereby, relinquished to the State of Iowa."

Secretary Smith, upon said report, ruled, under date 10th April, 1862, that "suc of the lands as are embraced in the act making the railroad grant, approved May 1 1856, are to be disposed of according to the terms of that act, and that without an regard to the fact of their having been certified under the act of 8th August, 1846, and further directed that "after carefully satisfying the demands of the State, en braced by that act, so much of the residue of the lands north of the mouth of th Raccoon Forks as were certified under the supposed grant of August 8, 1846, and whic the State of Iowa had sold to *bona fide* purchasers prior to 2d March, 1861, will be als certified to the State of Iowa."

Now, in regard to this latter part of Secretary Smith's ruling, it is proper to invit attention to the fact that the sales thus alluded to by him and referred to in the joir resolution of 2d March, 1861, as made by the State of Iowa to certain purchasers und the transcripts certified under said erroneous construction of the act of 8th Augus 1846, for land above the Raccoon Forks, are reported as embracing all the land th "improperly" certified for the Des Moines improvement above the said Raccoon Fork

In this connection it will be observed that in the act of 12th July, 1862 (Statute page 543), extending the Des Moines improvement to the northern boundary of Iow and providing for indemnity to that improvement interest where the land had bee sold by the United States, there is an exception made to those released to the ven e of Iowa by said joint resolution, coupled with an express stipulation to this effec "That if the said State shall have sold and conveyed any portion of the lands lyin within the limits of this grant (by act of 12th July, 1862), the title of which h proved invalid, any lands which shall be certified to said State in lieu thereof by vi tue of the provisions of this act shall inure to and be held as a trust-fund for tl benefit of the person or persons respectively whose titles shall have failed as afor said." Now, in submitting these railroad lists for your consideration, in view of tl application for your approval thereof, the question arises whether, under the sa ruling of your predecessor, these lists shall be approved to the State of Iowa railroad lands, without reference to said sales, for which the said act 12th July, 186 provides an indemnity fund where they prove invalid, or shall terms of saving a exception, in respect to said sales, be inserted in said transcripts.

Should it be determined by you that such terms are not required, in view of t indemnity stipulation above mentioned, the lists, as they now stand, are before y for approval; but if otherwise, it is respectfully suggested that you direct the ins tion of such terms, before approval, as the nature of the case, in your judgment, m require.

Third. There is another important matter to be considered in the premises, and th is, the force and effect of the said act of 12th July, 1862, in so far as the legal requi ment is concerned, commanding the Department to grant indemnity to that improv ment for lands sold or disposed of by the United States prior to the passage of said a the Iowa sales excluded. The mode of dealing with this matter is presented in t report from this office dated October 27, 1862, as approved by Secretary Smith, Nove

ber 3, 1862, and the principles laid down in that report and ruling will consequently govern this office in the adjustment of the extension interest by said act of 12th July, 1862, unless otherwise directed by you.

With great respect, your obedient servant,

J. M. EDMUNDS,
*Commissioner.*

Hon. J. P. USHER,
*Secretary of the Interior.*

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DEPARTMENT OF THE INTERIOR,
*Washington, April* 7, 1863.

SIR: Your report of 23d February last, in regard to the proper measures for carrying into effect the act of Congress approved July 12, 1862, by which the grant for the improvement of the Des Moines River was extended, has been carefully considered in connection with your report of 27th of October last upon the same subject.

The Secretary instructs me to state that, after mature deliberation and examination of the additional exhibits filed since your report was received, he concurs in the views you have expressed. He has accordingly approved the lists of lands inuring to the State of Iowa, under the act of Congress of 15th May, 1856, which accompanied your report, and the same are now returned to your office that the usual transcripts may be furnished to the governor.

The argument of Mr. Mason, and the communication of Mr. Steiger and its inclosures, which have been received here while this matter has been pending, are also herewith transmitted.

I am, sir, very respectfully, your obedient servant,

W. T. OTTO,
*Assistant Secretary.*

The COMMISSIONER OF THE GENERAL LAND OFFICE.

Following this construction the lands were listed, certified, and approved to the State as inuring under the railroad grant of May 15, 1856, saving the rights of settlers thereon.

On the 2d day of March, 1861, Congress passed the following joint resolution relating to these lands (12 Stat. at Large, 251):

JOINT RESOLUTION to quiet title to lands in the State of Iowa.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That all the title which the United States still retain in the tracts of land along the Des Moines River, and above the mouth of the Raccoon Fork thereof, in the State of Iowa, which have been certified to said State improperly by the Department of the Interior, as part of the grant by act of Congress approved August 8, 1846, and which is now held by *bona fide purchasers* under the State of Iowa, be, and the same is hereby, relinquished to the State of Iowa.

Approved March 2, 1861.

On April 10, 1862, Hon. Caleb B. Smith, Secretary of the Interior, addressed the following letter to the Commissioner of the General Land Office, being the letter referred to in the above letter of the Commissioner:

DEPARTMENT OF THE INTERIOR,
*Washington, April* 10, 1862.

SIR: In answer to your communication of the 18th of March last, making certain inquiries respecting the proper disposition of lands in Iowa, granted to the State by act of Congress of 15th of May, 1856, and by joint resolution approved March 2, 1861, I am of opinion that they are to be disposed of as said act and resolution direct, without any regard to the act of August 8, 1846, referred to in your letter.

It appears that the action of this Department in construing the last-named act has been in no respect uniform; not sufficiently so to form a precedent for its present direction; and if it had, there are now other considerations which will control its action. The Supreme Court has decided, in the case of the Dubuque and Pacific Railroad Company *vs.* Litchfield (23 Howard, p. 66), that the act of 8th of August, 1846, did not cede any lands to the State above the Raccoon Fork, and the before mentioned joint resolution declares that the lands above the Raccoon Fork were improperly certified as a portion of the grant of 8th of August, 1846.

It follows, then, that such of those lands as are embraced in the act making the railroad grant, approved May 15, 1856, are to be disposed of according to the terms of that act, and that without any regard to the fact of their having been certified under the act of August 8, 1846.

After completely satisfying the demands of the State, embraced by that act, so much of the residue of the lands north of the mouth of the Raccoon Fork as was certified under the supposed grant of August 8, 1846, and which the State of Iowa had sold to *bona fide* purchasers prior to the 2d of March, 1861, will be also certified to the State of Iowa.

The act of 15th of May, 1856, granted lands to the State for railroad purposes, except such lands as the rights of pre-emption have attached thereto. This last remark is made because it affects the case of Crilly, and, may be, others claiming pre-emption on said lands.

Very respectfully, your obedient servant,

CALEB B. SMITH,
*Secretary.*

The COMMISSIONER GENERAL LAND OFFICE.

On the same day the Secretary, in the case of George Crilly, held that the lands were subject to pre-emption rights existing at the date of the act of 1856, and the following is a copy of his letter relating thereto:

DEPARTMENT OF THE INTERIOR,
*Washington, April* 10, 1862.

SIR: George Crilly claims to be entitled to a pre-emption in the southeast quarter Sec. 29, T. 89, R. 28, in Iowa, which right has been rejected by the Commissioner of the General Land Office because the land is supposed not to have been the subject of pre-emption under the laws of Congress.

The reason assigned is that the same had been certified to the State of Iowa by this Department as a portion of the lands granted to that State for the river Des Moines improvement, per act August 8, 1846.

It is to be observed that although the lands were certified, yet that the action of this Department has by no means been uniform as to the construction of the law under which they were so credited, sometimes it being held that the grant covered these lands, and on other occasions it has been strenuously resisted. The Supreme Court of the United States, in the case of the Dubuque and Pacific Railroad Company *vs.* Litchfield (23 Howard, p. 66), upon the direct question, have decided that the grant did not include these lands. And moreover, Congress, by the joint resolution of March 2, 1861, has declared that the lands were improperly certified. It appears, then, that the certifying of these lands was an illegal act, and, so far as it affected the right of Crilly, was void.

The railroad grant, by its terms, does not embrace any tracts to which the right of pre-emption has attached; and as it appears to be conceded that Crilly made his settlement in July, 1855, and offered to file his declaratory statement in the proper office within the time prescribed by law, his right is antecedent to that of the State under the railroad grant.

If the facts supporting a pre-emption claim are established to the satisfaction of the local officers, Mr. Crilly should now be permitted to complete his entry of the quarter-section claimed, as all the impediments to the consummation of his right have been removed.

Very respectfully, your obedient servant,

CALEB B. SMITH,
*Secretary.*

The COMMISSIONER OF THE GENERAL LAND OFFICE.

On the 15th day of April, 1862, Hon. J. M. Edmunds, Commissioner of the General Land Office, addressed the following letter to Hon. J. W. Grimes, Senator from Iowa:

GENERAL LAND OFFICE, *April* 15, 1862.

SIR: I have the honor to inclose herewith a copy of the decision of the Secretary of the Interior of the 10th instant, in the case submitted to the Department in our letter of the 18th ultimo, a copy of which was furnished you in a letter of the same date.

Pursuant to said decision, it is proposed to make out the lists of lands inuring to the State for railroad purposes, under the act of 15th of May, 1856, in so far as the 6 and 15 miles limits of certain routes under that grant traverse the region which had been claimed by the State of Iowa, under the act of 8th of August, 1846, for the Des Moines

River improvement, *above the Raccoon Fork*, irrespective of the certified lists to the latter, which are held to be invalid under the decision of the Supreme Court of the United States, at its December term, 1859.

With great respect, your obedient servant,

J. M. EDMUNDS,
*Commissioner.*

Hon. J. W. GRIMES,
*United States Senate.*

The intent of this legislation (joint resolution of March 2, 1861) was evidently to quiet the title to such lands lying above Raccoon Fork as had been sold by the State to resident purchasers, settlers. As evidence of that intent we quote from the Congressional Globe the discussion on its passage in the House:

[February 2, 1861.—Congressional Globe, part 1, second session Thirty-sixth Congress, page 710.]

TITLE TO CERTAIN LANDS IN IOWA.

Mr. TRIMBLE. By the instruction of the Committee on Public Lands, I desire to report a joint resolution to quiet title to certain lands in the State of Iowa, and to ask that the same be considered now and put upon its passage.

The bill, which was read, provides that all the title which the United States still retains in the tracts of lands along the Des Moines River, above the mouth of the Raccoon Fork thereof, in the State of Iowa, which have heretofore been certified to that State improperly by the Secretary of the Interior, as part of the grant approved under the act of August 8, 1846, be relinquished to the State of Iowa.

Mr. TRIMBLE. If there is any objection made to it, such objection may be removed by an explanation which will not occupy more than two minutes.

Mr. THOMAS. I would like to have the bill explained.

Mr. TRIMBLE. In 1846 the Congress of the United States made a grant of land to the State of Iowa to aid in the improvement of the navigation of the Des Moines River. The Secretary of the Interior certified to that State some four hundred thousand acres of land above the mouth of the Raccoon Fork of that River. It has been decided by the Supreme Court of the United States that those lands were improperly certified. A subsequent grant made by Congress to the State of Iowa, for railroad purposes, covers the whole of these four hundred thousand acres, with the exception of about one thousand acres. These lands, therefore, do not revert to the Government of the United States in consequence of that decison, but are still to be retained by the State for railroad purposes. These lands have been sold to actual settlers, who have paid their money for them. They are now occupied, and there are three or four towns built upon them. There are, to my actual knowledge, lands among them worth from fifty to sixty dollars per acre. The settlers want their titles confirmed. The State sold and patented the lands to the present occupants; and all this resolution asks is that their titles may be confirmed. This resolution is drawn up, and its adoption recommended, by the Secretary of the Interior.

Mr. PHELPS. If I am not mistaken, this question was before the late Secretary of the Interior for his decision; and there has recently been some action upon it by that Department. Is not that so?

Mr. TRIMBLE. It is. I have had the matter in my hands since the last session of Congress, and during the present session. The result of the deliberations of the Interior Department is the recommendation of the adoption of this resolution, which, as I said before, was drawn up by the Secretary of the Interior.

Mr. PHELPS. Then it met with the approval of the Commissioner of the General Land Office, and the late Secretary of the Interior, Mr. Thompson.

Mr. TRIMBLE. Accompanying the resolution is a communication from the Secretary of the Interior, giving his reasons for recommending its passage.

No objection being made, the resolution was received, read a first and second time, and ordered to be engrossed and read a third time; and, being engrossed, it was accordingly read the third time and passed.

Mr. TRIMBLE moved to reconsider the vote by which the resolution was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The governor of Iowa being called upon to certify a list of lands above the Raccoon Fork erroneously certified and sold by the State to *bona fide* purchasere, within the meaning of the above recited act of Congress, submitted a list of such lands only as the State had sold to individuals during the time it had conducted the improvement, and did

not certify the lands which the State had released to the Des Moines Navigation and Railroad Company by the deeds above set out. That company, however, did forward to the Commissioner of the General Land Office a list of the lands it had sold to actual settlers, which appears to have received no action in the Department.

That the interpretation by the governor of Iowa of the act of 1861 was that of Congress is evidenced by the act of July 12, 1862 (U. S. Stats., 1862, p. —), as follows:

That the grant of lands to the then Territory of Iowa, for the improvement of the Des Moines River, made by the act of August 8, 1846, is hereby extended so as to include the alternate sections (designated by odd numbers) lying within 5 miles of said river, between the Raccoon Fork and the northern boundary of said State; such lands are to be held and applied in accordance with the provisions of the original grant, except that the consent of Congress is hereby given to the application of a portion thereof to aid in the construction of the Keokuk, Fort Des Moines, and Minnesota Railroad, in accordance with the provisions of the act of the general assembly of the State of Iowa, approved March 22, 1858. And if any of said lands shall have been sold or otherwise disposed of by the United States before the passage of this act, excepting those released by the United States to the grantees of the State of Iowa under joint resolution of March 2, 1861, the Secretary of the Interior is hereby directed to set apart an equal amount of lands within said State to be certified in lieu thereof: *Provided*, That if the State shall have sold and conveyed any portion of the lands lying within the limits of this grant, the title of which has proved invalid, any lands which shall be certified to said State in lieu thereof by virtue of the provisions of this act shall inure to and be held as a trust-fund for the benefit of the person or persons, respectively, whose titles shall have failed as aforesaid.

Approved July 12, 1862. (United States Statutes at Large, 1862, p. —.)

There was, however, a prevalent impression that the lands under consideration inured to the State of Iowa under the railroad grant, and that the United States had "sold or otherwise disposed" of these lands in contemplation of the above act. In pursuance of chapter 79, acts of the eleventh general assembly of Iowa, 1856, an adjustment or settlement (known as the "Harvey settlement") of matters arising out of these several grants was had by the United States and the State of Iowa, and a full report made by Mr. Harvey, agent of the State, to the census board of Iowa is herewith submitted:

WASHINGTON CITY, D. C., *May* 23, 1866.

*To the honorable Census Board of the State of Iowa, Des Moines:*

Pursuant to the requirements of chapter 79 of the acts of the eleventh general assembly, I have the honor to report:

That I have consummated an adjustment with the United States of the excess of lands received by the State under the grant of September 4, 1841. Also, the lands confirmed to the State by the joint resolution of March 2, 1861, and the lands falling to the State under the act of Congress of July 12, 1862; and transmit herewith for your approval a copy of the agreement containing the terms of said adjustment.

It will be observed that the State in this settlement is credited with the whole amount of land in odd sections, and lying within five miles of the Des Moines River from the Raccoon Fork to the northern boundary of the State, determined (by the Department) to be 558,004.06 acres.

The State is then charged with the several quantities of land following, to wit:

| | Acres. |
|---|---|
| (1) Indemnity-land selected under special certificate dated April 25, 1863. | 297,603.74 |
| (2) Remaining lands in place yet to be certified.. | 167,109.02 |
| (3) Lands in place confirmed by the joint resolution of March 2, 1861.... | 44,838.64 |
| (4) Lands selected and heretofore certified on the East Fork of the Des Moines River, and more than five miles from the Western or main branch | 11,661.80 |
| (5) The excess selected and approved to the State as a part of the 500,000-acre grant under the act of September 4, 1841 | 35,473.54 |
| Making in all | 556,686.74 |
| And leaving due the State to balance the whole amount of the grant.... | 1,317.32 |

For this a special certificate will be issued.

The 11,661.80 acres on the East Branch of the Des Moines River heretofore approved to the State as a part of the Des Moines River grant, and disposed of by the State as such, are held by the Department, under the decision of the Attorney-General, to be a proper and legitimate offset to so much of this grant. Hence they are charged to the State in this settlement.

The 35,473.54 acres charged as excess under the 500,000-acre grant (act 1841) include the 25,660.03 acres over and above the 500,000 acres which are embraced in the book of diagrams approved and certified to the State on the 12th of September, 1854, and which have hitherto been considered the excess; and also the 12,813.51 acres which were once approved as a part of the 500,000-acre grant and afterward rejected and approved and certified as a part of the Des Moines River grant. These lands have been known as the "river school-lands."

Notwithstanding that they have been disposed of by the State as a part of the Des Moines River lands, said chapter 79 requires that they shall be included and certified as a part of the grant of 1841.

Deeming it my duty to carry out the provisions of the law, regardless of my personal opinion as to their correctness or propriety, I have thus included these lands, thereby increasing said excess to 35,475.54 acres, and allowed them to be deducted from the amount of the Des Moines River grant due the State, as the Department had determined.

The proper and necessary lists, according to the terms of this adjustment, will be made and approved by the Secretary and delivered to me or sent to the State.

In the preparation of these lists all lands which appear at the General Land Office as having been selected as swamp, under act of September 28, 1850, and all tracts to which pre-emption rights had attached prior to July 12, 1862, will be excluded. If, however, any of the tracts thus listed and certified shall be found to have been duly selected under said act of September 28, 1850, and shall be shown by legal investigation to be swamp or overflowed, or to belong to the State by said act the Government will approve and certify other lands of like quantity in lieu thereof.

This adjustment, which I think is fair and just, and should be satisfactory to the State, will, when approved by you, be a final settlement between the State of Iowa and the United States of all claims under the Des Moines River grant, as well as of the act of 1841, except as far as valid and legal subsisting adverse rights may be found to exist to any of the tracts thus approved to the State

The excess of the 500,000-acre grant (35,475.54 acres) thus deducted is, by an agreement between the States and the Des Moines Valley Railroad Company (the beneficiary of the grant), to be credited to said company at the rate of $1.25 per acre, in the satisfaction of claims against the State on account of the improvement of the Des Moines River. Said company should therefore be credited on the claims they are under obligations to satisfy, with the sum of $44,341.67.

My authority extends only to settlement with the General Government; I have no power to carry out this agreement between the State and the company. It is but just, however, for me to say that this settlement has been made with the United States with the full understanding that this arrangement should be carried out.

The company, through its agents, has, for a long time, been laboring to this end. The opinion and decision of the Secretary of the Interior (a copy of which, accompanying Mr. Kilbourn's report made last winter, is herewith transmitted for your examination in connection with this adjustment) is the result of their efforts.

The labor of these agents (Messrs. Kilbourn and Mason) heretofore in the premises has greatly relieved me and enabled me to close up the settlement thus early. It is due the company that this credit be given as soon as possible.

I hope, therefore, that this entire agreement will meet with your approbation, and that you will, as I think you have a right, and may safely do, fully consummate and carry it out, by giving said company the benefit of said credit against said claims without delay.

Very respectfully submitted.

J. A. HARVEY,
*Commissioner.*

*Adjustment of the Iowa Des Moines River grant, under the act of July* 12, 1862, *and joint resolution of March* 2, 1861.

DEBIT.

| | Acres. |
|---|---|
| The State of Iowa with the quantity of indemnity-land selected under special certificate dated April 25, 1863 | 297,603.74 |
| The lands in place to be certified | 167,109.02 |
| The lands in place confirmed by joint resolution of March 2, 1861 | 44,838.64 |

The quantity selected on the East Fork of Des Moines River and certified to the State under the original law of August 8, 1846..... 11
The excess selected and approved to the State under the 500,000 grant of 1841 ..... 3

55

Remaining indemnity due to the State ..... 1

55

CREDIT.

The State of Iowa with the whole area of the grant above the Raccoon Fork ..... 55

55

J. M. EDMUNDS,
*Commissioner General Land*

GENERAL LAND OFFICE, *May* 21, 1866.

WASHINGTON CITY, *May* 21

Pursuant to the authority conferred by the act of the State of Iowa, approve 30, 1866, "for the adjustment of certain land-claims with the General Gover I, Josiah A. Harvey, register of the State land office, and as commissioner o of the State, do hereby assent to the adjustment as herein stated, the said adj to be held as binding and conclusive on the said State as provided in said act.

JOSIAH A. HARVEY,
*Register of the State Land Offi*
*and Commissioner on behalf of the State of*

STATE OF IOWA, *ss:*

The within adjustment as stated is hereby approved by us for the State of I

W. M. STONE, *Governor,*
[SEAL.] JAS. WRIGHT, *Secretary of S*
JOHN A. ELLIOTT, *Auditor.*
W. H. HOLMES, *Treasurer,*
*Census.*

JUNE 20, 1866.

DEPARTMENT OF THE INTERIOR, *May* 2

The adjustment as herein stated is hereby approved.

JAS. HARLAN, *Se*

DEPARTMENT OF THE INTERIOR,
*General Land Office, December* 2

I, Joseph S. Wilson, Commissioner of the General Land Office, do hereb that the annexed copies are a true and literal exemplification of the origin in this office.

In testimony whereof I have hereunto subscribed my name and caused th this office to be affixed at the city of Washington on the day and year above

[SEAL.] JOS. S. WILSO
*Commissioner of the General Lan*

Let it be kept in mind that the "Harvey settlement" was to and settle all rights as to lands falling to the State under the joi lution of March 2, 1861, and the act of July 12, 1862, and it did these lands in dispute here did not enter into the account. Th not regarded as lands to which the State had right or title, nor assumed to have.

All that the State claimed was that as to the 55,990 acres, it h them to its people believing it had the right to so sell, and the ment, by the resolution of 1861, validated these sales and these

The navigation company was not regarded by any one the *purchaser* of these lands above the Fork, as coming within th sions of the resolution of 1861.

:cember term, 1866, in the case of Walcott against the Des Moines Navi-
Railroad Company, the Supreme Court of the United States held that the
ield the title to the lands in suit therein. This tract was of the same char-
title as the whole of those above Raccoon Fork, in odd-numbered sections,
miles of the Des Moines River, now under consideration. The court bases
on the grant of August, 1846, and the subsequent legislation of Congress,
rn.
ion was announced by Mr. Justice Nelson May 13, 1867, and we submit a
opinion in the case reported in 5th Wallace, p. 681:

reme Court of the United States—No. 204.—December term, 1866.)

. Walcott, plaintiff in error, *vs.* The Des Moines Navigation and Railroad
In error to the circuit court of the United States for the southern district
rk.
ice Nelson delivered the opinion of the court.
writ of error to the circuit court of the United States for the southern dis-
w York.
n action by the plaintiff, Walcott, against the defendants for breach of cov-

ndants conveyed by deed-poll to the plaintiff, on 1st August, 1859, the east
tion 17, township 88, range 27, situate in Webster County, State of Iowa,
three hundred and twenty acres, for the consideration of $3,040, and war-
title. It is charged in the declaration that the title has failed, which is
he part of the defendants. This presents the main issue in the case.
h of August, 1846, Congress passed an act by which they granted to the
f Iowa, for the purpose of aid in the improvement of the navigation of
oines River, from its mouth to the Raccoon Fork, in said Territory, an
ty, in alternate sections, of the public lands, in a strip of 5 miles in width
le of said river, to be selected within said Territory by an agent of the
subject to the approval of the Secretary of the Treasury of the United

nd section provided that the lands so granted should not be sold or con-
he Territory, nor by any State to be formed out of it, except as the im-
s progressed—that is, sales might be made so as to produce the sum of
d then cease, until the governor or State, as the case might be, should
fact to the President of the United States that one-half of this sum had
ded on said improvements, when sales again might be made of the remain-
nfficient to replace this amount; and the sales were thus to progress as the
ere expended, and the expenditures so certified to the President. Agents
nted by the governor, who selected the section designated by odd numbers,
the whole extent of the grant, which, as claimed, extended from the
he river to the northern boundary of the State.
n question is one of the sections thus selected and approved by the Secre-
Treasury, and duly certified by the governor of the State to the President,
o the second section of the act, and was sold and conveyed, among other
and, by the State to the defendants. The section of land of which the lot
is a part was situated above the Raccoon Fork.
r and a half after the passage of this act a question arose before the Com-
f the Land Office whether the grant of the odd sections within the 5 miles
bove this fork. He determined that it did, and that it extended through-
ole line of the river within the limits of Iowa. It appears, however, that
rd changed his opinion, and on the 19th June, 1848, a proclamation was
he President, countersigned by him, ordering a sale of some of these odd
nong other lands, lying above the fork, and which was to take place in the
October. On the attention of the Secretary of the Treasury being called to
, he, after an examination of the act, determined that upon a true construc-
he grant extended above the Raccoon Fork, and directed that the odd sec-
d be reserved from the sale, which was done accordingly, and the State of
notified. This was on the 16th June, 1849. On the 6th April, 1850, the
f the Interior, whose Department had in the mean time been established,
ch the supervision and control of the General Land Office had been as-
ersed the previous decision of the Secretary of the Treasury, and deter-
the grant did not extend beyond the Raccoon Fork. But he directed that
hould be reserved from sale which were embraced within the State's selec-
question was then brought before the President, and was referred by him
orney-General, who differed with the Secretary of the Interior, and con-
h the Secretary of the Treasury. But before the promulgation of this de-
President (Taylor) died, and a new Cabinet coming in—and among others
orney-General—he overruled the decision of his predecessor, and affirmed
*Secretary of the Interior. The cause* was then brought before the new

President and Cabinet, and the result is stated by the then Secretary of the Interior under date of October 29, 1851, which was "that in view of the great conflict of opinion among the executive officers of the Government, and also in view of the opinion of several eminent jurists which have been presented to me in favor of the construction contended for by the State, I am willing to recognize the claim of the State and to approve of the selections, without prejudice to the rights, if any there be, of other parties." Under this arrangement the Secretary of the Interior approved of the odd sections above the fork as certified, according to the act of Congress, till in December, 1853, the number of acres amounted to over 271,752. On the 21st March 1856, the Commissioner of the Land Office again decided that the grant was limited to the Raccoon Fork, and the question was again referred to the Attorney-General who advised the Secretary of the Interior to acquiesce in the views of his predecessor (a change having taken place as to the incumbent), and to continue the approval of the lands as certified to him under the law, which was done accordingly. In the mean time the improvement of the Des Moines River had been carried on by the State and by the Des Moines Navigation and Railroad Company, who, on the 9th June 1854, had entered into an engagement with the State to finish the improvements, as contemplated by the act of Congress, and to expend for that purpose some $1,300,000.

The question as to the true construction of this grant of 8th August, 1846, and in respect to which such great diversity of opinion existed among the executive officers of the Government, came before this court, and was decided at the December term, 1859–'60. The court held that it was limited to the Raccoon Fork, and did not extend above it. (22 How., 66, Dubuque and Pacific Railroad Company *vs.* Litchfield.)

Whereupon on the 2d March, 1861, Congress passed a joint resolution providing that "all the title which the United States still retain in the tracts of land along the Des Moines River, and above the Raccoon Fork thereof, in the State of Iowa, which have been certified to said State improperly by the Department of the Interior, as part of the grant by act of Congress approved August 8, 1846, and which is now held by bona fide purchasers under the State of Iowa, be, and the same is hereby, relinquished to the State." And on the 12th July, 1862, Congress enacted "that the grant of lands to the then Territory of Iowa for the improvement of the Des Moines River by the act of August 8, 1846, is hereby extended so as to include the alternate sections (designated by odd numbers) lying within five miles of said river, between the Raccoon Fork and the northern boundary of said State. Such lands are to be held and applied in accordance with the provisions of the original grant, except that the consent of Congress is hereby given to the application of a portion thereof to aid in the construction of the Keokuk, Fort Des Moines and Minnesota Railroad, in accordance with the provisions of the act of the general assembly of the State of Iowa approved March 22, 1858."

If the case stopped here it would be very clear that the plaintiff could not recover; for, although the State possessed no title to the lot in dispute at the time of the conveyance to the Des Moines Navigation and Railroad Company, yet, having an after-acquired title by the act of Congress, it would inure to the benefit of the grantees, and so in respect to their conveyance to the plaintiff. This is in accordance with the laws of the State of Iowa.

But another act of Congress is relied on by the plaintiff, passed May 15, 1856, as showing that the United States had already parted with the lands, of which the lot in question is a part, previous to this act of 12th July, 1862. It becomes necessary, therefore, to examine this act. It grants to the State of Iowa, for the purpose of aiding in the construction of certain railroads specified, every alternate section of land (designated by odd numbers) for six sections in width on each side of said roads, with the following proviso: "That any and all lands heretofore reserved to the United States by any act of Congress, or *in any other manner by competent authority, for the purpose of aiding in any objects of internal improvements, or for any purpose whatsoever*, be, and the same is hereby, reserved from the operation of this act, except so far as it may be found necessary to locate the routes of the said railroads through such reserved land, in which case the right of way shall be granted, subject to the approval of the President." This grant to the State for the benefit of the railroads, it is admitted, covers the tract within which the lot in question is situate, unless excluded by the proviso. The question turns upon the construction of this proviso, and in reading it in connection with the act of 1846, granting lands to the State of Iowa for the improvement of the Des Moines River, and in connection with the serious and prolonged conflict of opinion that arose among the executive officers of the Government, extending over a period of some eight years, and which related to the title above the Raccoon Fork, in respect to which this act of 1856 was dealing in the grant for the benefit of the railroads, we think it difficult to resist the conclusion that Congress, in the passage of the proviso, had specially in their minds this previous grant, and conflict of opinion concerning it, and intended to reserve the lands for future disposition, if the title under the first grant should turn out to be defective. The decision of this court had not then taken place, though the litigation was probably pending in the court below, in the district of Iowa. The words of the proviso point almost directly to this grant and to the dispute arising out of it among the public authorities—"All lands hereto

d," &c., "by any act of Congress, or in any other manner by competent for the purpose of aiding in any objects of internal improvements," &c. ovements of the Des Moines River were then in progress. Now, if it had that the true construction of the act carried the grant above the Raccoon the lands would have been reserved by act of Congress, and no further necessary. But, not satisfied with this, as if to provide for any results in the title to them, if reserved in any other manner by competent authority, ect of internal improvements, then the enacting clause should not operate em under the new grant.

en argued that these lands had not been reserved by competent authority, that the reservation was nugatory. As we have seen, they were reserved or the special purpose of aiding in the improvement of the Des Moines River— Secretary of the Treasury, when the Land Department was under his super- control, and again by the Secretary of the Interior, after the establishment partment, to which the duties were assigned, and afterward continued by tment, under instructions from the President and Cabinet. Besides, if this not competent, which we think it was ever since the establishment of the artment, and which has been exercised down to the present time, the grant ust, 1846, carried along with it, by necessary implication, not only the power, ity, of the Land Office to reserve from sale the lands embraced in the grant. its object might be utterly defeated. Hence, immediately upon a grant le by Congress for any of these public purposes to a State, notice is given by issioner of the Land-Office to the registers and receivers to stop all sales, lic or by private entry. Such notice was given the same day the grant was 856, for the benefit of these railroads. That there was a dispute existing as ent of this grant of 1846 in no way affects the question. The serious con- inion among the public authorities on the subject made it the duty of the rs to withhold the sales and reserve them to the United States till it was disposed of.

d be stated, also, in connection with this proviso, that the improvements of were in progress at the time of the passage of the act of 1856, and had been but were suspended soon after, on account of the refusal of the Land Depart- rtify any more sections under the act of 1846; and, as appears from the cer- the governor of Iowa, the sum of $332,634.04 had already been expended efendants under their contract.

at of the court below affirmed.

liately following this decision the Secretary of the Interior ruled lands under consideration were a part of the public domain and the pre-emption and homestead laws. In the case of Herbert settler upon a tract of this land under date of May 9, 1868, he the legislation, Departmental, and decisions of the court touch- same, and on the same date addressed a letter to the Commis- the General Land Office, which we copy as follows:

DEPARTMENT OF THE INTERIOR,
*Washington, D. C., May* 9, 1868.

ave received your report of the 9th October last, and the accompanying the case of Herbert Battan, from the Des Moines office, Iowa, claiming the re-emption to the southwest quarter 3, T. 83, R. 27, by reason of a settlement eon October 2, 1857.

ars from your report that on the 6th December, 1866, you awarded the land but as it had been previously certified to the State of Iowa, under the rail- t of May 15, 1856, you required a relinquishment on the part of the State be- g patent. That on the 23d July, 1867, you re-examined the case and decided the entry of Battin, upon the ground that his settlement commenced after of the railroad company had attached.

is decision Battin appeals. The required relinquishment under the railroad received at your office after you had made the second decision.

ct of land is a part of an odd-numbered section, situated above the Raccoon hin 5 miles of the Des Moines River, and claimed as a part of the grant to d in the improvement of said river. It is also within the 6-mile limit of the rant, and was approved and certified to the State under both grants.

of these grants, the general decisions of the Department and of the Supreme eference to their extent and validity, it becomes necessary to review the tter in order to a correct determination of the case under consideration.

act of Congress approved August 8, 1846 (9 Stat., 777,) granted to the Ter- Iowa, "for the purpose of aiding said Territory to improve the navigation of *oines River from its mouth to the Raccoon Fork* (so called) in said Territory, *moiety, in alternate sections, of the public* lands remaining unsold and not

otherwise disposed of, incumbered, or appropriated, in a strip 5 miles in wi
each side of said river"; to be selected within said Territory by an agent or age

The proper State authorities, February 15, 1851, formerly notified your off they selected the odd sections above the Raccoon Fork to the source of the Des River; and on the 10th March, 1852, certain lands, among which was the tract tion, were approved to the State by Secretary Stuart, in view of the decision c tary Walker that the grant extended above said fork. Prior to this last date, conflicting decisions had been made as to the limits of this grant, some exte only to the mouth of the Raccoon Fork, others to the northern boundary of th

At the December term, 1859, the Supreme Court of the United States, in th the Dubuque and Pacific Railroad Company *vs.* Litchfield (23 Howard, 66), that this grant did not extend above the Raccoon Fork.

The action of the Executive Departments, awarding and transferring to th under this grant, lands situate above the said fork, was regarded by the cou authorized and void.

They were, therefore, approved to the State for railroads, under said act of 1856, so far as such lands were situate within the prescribed limits of the lin road.

The attorney of the Des Moines Navigation and Railroad Company, in a ve rate brief, contends that under the grant of 1846 this land was withdrawn, a the original decision of the court could not operate to restore it. He refers t structions issued by the Commissioner of the General Land Office, of June 1, the register and receiver at Iowa City, Iowa, for evidence of withdrawal. Up ing at these instructions, it is found that the withdrawal only extended up t ship 83 north, range 26 west, that being as far as the public surveys had pr in that direction. This tract is, consequently, not within the limits of th drawal.

Besides, the court held that the act of Congress "was a grant to Iowa o divided moiety of the lands below the Raccoon Fork, and the officers of the E Department had no further authority than to make partition of these lands. extended their acts to lands lying outside of the boundaries, their attempts partition were merely nugatory."

The grant being thus restricted to lands below the Raccoon Fork, Congress olution approved March 2, 1861, relinquished to the State of Iowa all the United States then held in the tracts of land above the said fork which had l properly certified to said State under the grant of 1846, and which were then *bona fide* purchasers under the State.

It is also claimed that the Des Moines Improvement Company was a *bona* chaser from the State, and consequently that the defect of title was cured by olution. After it had been approved the State was called upon to furnish a li tracts improperly certified to her which she had sold.

This tract is not found in the State's list, although it appears in a list of tr to have been sold by the company.

Said resolution not covering all the lands claimed for the Des Moines Riv Congress passed the act approved July 12, 1862.

This act makes a new grant to the State of those lands above the Raccoon F be held and applied in accordance with the original grant," except a portion which are to be used to aid in constructing a railroad, and it is provided tha of said lands shall have been sold or otherwise disposed of by the United St cepting those released under the joint resolution," an equal amount of lan the State are to be set apart and certified in lieu thereof.

Referring to the original grant it is found to include only public lands "r unsold and not otherwise disposed of, encumbered, and appropriated." The n gives indemnity for any of such lands above the said fork disposed of, exce released by the resolution. In view of this legislation it became necessary tain what indemnity, if any, was due the State. The Commissioner of the Land Office, therefore, stated an account between the United States and the Iowa, dated May 21, 1866. The State was credited with the amount of the o bered sections within 5 miles of the Des Moines River, above the Raccoon For a total of 558,004.06 acres, and debited as follows:

| | |
|---|---|
| (1) Land selected under special certificate | 29 |
| (2) Land in place to be certified | 16 |
| (3) Land confirmed by resolution | 4 |
| (4) Land confirmed on East Fork | 1 |
| (5) Excess selected and approved under the act of 1841 | 3 |
| | 5 |
| Leaving due the State | |

ustment was accepted by Josiah A. Harvey, "register of the State land office
ssioner on behalf of the State of Iowa," and approved by Mr. Secretary
ay 29, 1866. The 1,317.32 acres were subsequently selected and approved to
The State, by the deliberate and recorded admission of her authorized
s thus received all the lands to which she was entitled on account of the
ent of said river. The adjustment is conclusive and final.
tate received indemnity for this identical tract, her claim on behalf of the
s Company must be rejected without regard to adverse claims.
ing disposed of the claim under the river grant, I proceed to consider that of
d. I premise by saying that while it appears the railroad company were
the appeal taken by Battin, they have failed to put in an appearance.
nt to the State for the purpose of aiding in the construction of railroads by
1856 granted every alternate odd-numbered section for six sections in width
de of each of the roads, with the right to select indemnity for such sections
hereof disposed of, with a proviso reserving from the operation of the grant
ll lands reserved for the purpose of aiding in any of the internal improve-

reme Court of the United States, at the December term, 1866 (5 Wallace, 681),
decision to the effect that said proviso operated to exclude from the rail-
the odd-numbered sections within five miles of the Des Moines River, above
on Fork, and that the same passed to the State under the acts granting lands
mproving said river.
ate of that decision the Des Moines River grant had been finally adjusted.
e had, as before remarked, received all the land to which she was entitled
t thereof, and she is thus estopped from setting up a claim. Although this
ot appear in the record of the case, I have shown that it is incontrovertibly
l by the records of your office. It is the duty of the Department in admin-
e acts of Congress to give full effect to the settlement, otherwise the State
obtain, in lieu of lands which she alleged had been "otherwise disposed
lemnity amounting to an equal quantity of such lands, and then, when her
nd selected by way of indemnity had been recognized and confirmed to her,
assert her title to the lands she alleged had been disposed of. The effect of
l give her more than she originally claimed. *The effect of that decision is,
nly to exclude from the railroad grant lands lying north of the fork, and to
n to the public domain, at least so far as to subject them to the operation of the
and homestead laws.* Further, by act of June 2, 1864 (13 Stat., 98), amend-
he grant of 1856, additional lands were granted to the State, and new pro-
re ingrafted upon the original law. One of these, the last proviso to the
tion, excludes from the railroad grant any land "settled upon and improved
ith by a *bona fide* inhabitant under color of title derived from the United
he State of Iowa, adverse to the grant," and the railroad company are au-
o select other land in lieu of tracts so settled upon and improved. These
nhabitants need not necessarily be pre-emption settlers, but they must be
*ettlers* claiming from the United States or the State of Iowa. Consequently,
could have no valid claim under the railroad grant to any tract settled upon
ved in good faith by *bona fide* inhabitants. Furthermore, it is certified by
tive of the State, that the State has not transferred this tract, and he relin-
y title or color of title to it by virtue of its having been approved and cer-
r that grant.
remaining question to be determined is whether Battin's claim can be allowed.
aterial to consider whether this land has ever been reserved so as to exclude
e operation of the pre-emption laws. Even if such had been the case, the
would be removed by the proviso in the act of 1864, and it is only necessary
in whether he is a "*bona fide* settler," &c.
e evidence, it would appear that Battin settled upon the land in good faith
, 1857, having purchased the improvements of a prior settler, and has com-
the requirements of the preemption law and been allowed to enter the land
try is in accordance with law, and will be carried into patent.
n, sir, very respectfully, your obedient servant,

O. H. BROWNING,
*Secretary.*

SEPH S. WILSON,
*ommissioner of the General Land Office.*

was also clearly the idea had by the Commissioner of the General
ffice in 1862; for, on June 26, 1862, Commissioner J. M. Ed-
wrote the governor of Iowa requiring him to supply the Depart-
th lists of such lands as the State claimed under the resolution

of 1861. Each tract of land was to be described, date of sale, na purchaser, consideration paid, and date of State patent—all to l tified under the State seal. The significance of such items are tant, especially date of sale, in view of the act of August 3, 185 the terms of the resolution.

September 25, 1862, the foregoing request was repeated b Commissioner Edmunds: The governor sent one list for 12,209.82 another for 32,628.82 acres, and one for 11,152 acres; total acres tified, 55,990.64.

These are all the lands that have ever been patented to Iowa und law, and from the lists heretofore "improperly certified," as refe in the resolution of 1861. The first two items are lands imme above the Coon, and sold mostly to settlers by the State land of fore the contract with the company, and before the law of Au 1854.

The whole amount "improperly" set apart by the Departme 271,572 acres. After deducting the amount above, the settlers that the rest is public lands—title in the United States with the as pre emptors, &c.

As tending to show how the resolution of March 2, 1861, was re by all parties under the "Harvey settlement," it must be remem that in the accounting then the Navigation Company had their sent in; they sent in a list of these lands, which they claimed t sold to *bona fide* purchasers, but it was rejected.

The company has never been held or treated, where the fa have been asserted, as a "*bona fide* purchaser under the State of

Therefore the 213,000 acres of land in dispute have neve selected, nor certified to Iowa, under any law, since the patents in 1863 for railroads were declared by the courts "null and voi remains in Government to day.

The Wolcott suit was without doubt collusive, and as such n tled to much, if any, weight or consideration.

In stating the case upon which the decision is based (page 6 court expressly stated:

> The land in question is one of the sections thus selected and approved by retary of the Treasury, and duly certified by the governor of the State to t dent according to the second section of the act, and was sold and conveye other parcels of land by the State to the defendants.

The Secretary of the Treasury never certified an acre of these nor were they "certified by the governor to the President accor the second section of the act," and the conditional certificates o tary Stuart to Iowa, "improperly" made, had been canceled court, declared "null and void."

No court with the facts before it could or would have made th ment. But neither the United States nor the settlers were in th and, therefore, are not bound by such fraudulent statements.

It did not pass upon the question of the rights of persons cl under the pre-emption or homestead laws—the classes which C especially designed to protect—and, in fact, the claims of these were not presented to the court; and, for this reason, the most im issue which could arise was left undecided.

The ruling in the Battin case, above cited, was followed in nu others before the Secretary soon after the date of the Battin let

On the 20th of May, 1868, the Commissioner of the Gener office addressed a letter to the register and receiver of the Des

nd office, in which district most of the lands under considera-
e situate. The following is a copy of that letter:

DEPARTMENT OF THE INTERIOR,
*General Land Office, May* 20, 1868.

EMEN: Under date of the 9th instant the Hon. Secretary of the Interior re-
e decision of this office of July 23, 1867, rejecting the claim of Herbert Battin
ithwest quarter section 3, township 83 north, range 27 west, and awarding
to the Iowa Central Railroad Company, and from which ruling an appeal
n by J. Browne, esq., representing the Des Moines River Navigation Company.
r of this decision of the Hon. Secretary, the Des Moines Company will not be
as having an interest touching any pre-emption or homestead claim to lands
aced in the settlement of May 21–29, 1866, with the State of Iowa on account
rious grants of land for the improvement of the Des Moines River. A copy
cision of the Secretary is herewith inclosed for your information and that of
is interested in this or similar cases.
e-emption cash entry No. 21,240 of Herbert Battin, covering the tracts de-
as this day been relieved from suspension, approved and filed for patenting.
ry respectfully,

JOS. S. WILSON,
*Commissioner.*

ER and RECEIVER,
*Des Moines, Iowa.*

ie 10th day of June, 1868, the Commissioner wrote the same
another letter, of which the following is a copy:

DEPARTMENT OF THE INTERIOR,
*General Land Office, June* 10, 1868.

EMEN: I am in receipt of the register's letter of the 3d instant inclosing the
on of Jeremiah Elliott, who applies to enter the northeast fractional one-
and northeast quarter southeast quarter Section 3, T. 83 N., R. 27 W., and
at Mr. Elliott had filed D. S. No. 3215 for said tract under the pre-emption
l.
y I have to state that said tracts are of the same class of lands awarded to
Battin by the Hon. Secretary's decision of May 9, 1868, a copy of which was
ted to your office on the 20th ultimo, and is, in fact, a part of the same sec-
oved to Battin under said decision.
ll, therefore, allow Mr. Elliott to prove up and pay for said tracts under the
ion act of 1841, if you are fully satisfied that he has a valid pre-emption
reto and comes within the purview of decision above referred to.
ry respectfully,

JOS. S. WILSON,
*Commissioner.*

ER and RECEIVER,
*Des Moines, Iowa.*

e mean time the Des Moines Navigation and Railroad Company
l the local officers from carrying out the order of the Secretary,
in the district court, and on the 17th day of June, 1868, the Secre-
the Interior wrote to the Commissioner of the General Land
he following letter relating thereto:

DEPARTMENT OF THE INTERIOR,
*Washington, D. C., June* 17, 1868.

have received your letter of the 15th instant, and accompanying papers,
it appears that the United States district court for the district of Iowa has
injunction against the register and receiver of the local land office at Des
Iowa, to restrain those officers from carrying out the decisions of this Depart-
the case of Herbert Battin and others.
ill direct the register and receiver to employ competent counsel to answer for
nd the action of this Department in the cases referred to. You will state to
at copies of any papers from the files of this Department, which may be
for that purpose, will be furnished upon application. Said counsel will be
d at the expense of the United States, and the bill will be sent to your office
ment. I return the papers.
ry respectfully, your obedient servant,

A. H. BROWNING.
*Secretary.*

*os. S. WILSON,*
*mmissioner of the General Land Office.*

This information was communicated to the local land officers, and counsel was employed and defense made in the suit.

On the 28th day of August, 1868, the Commissioner of the General Land Office wrote the register and receiver at Des Moines, Iowa, the following letter, instructing them to disregard the injunction proceedings:

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
*August* 28, 1868.

GENTLEMEN: On the 9th of May last the honorable Secretary of the Interior decided in favor of the right of Herbert Battin to enter as a pre-emptor the southwest quarter of section 3, township 83, range 27, in the Des Moines land district, Iowa, and you were accordingly instructed to be governed by that decision in all cases within the ruling therein made.

For carrying out these instructions you were, on the 5th of June last, served with a writ of injunction, issued from the United States circuit court for the district of Iowa, enjoining you from proceeding under said instructions. By direction of the Acting Secretary, this day received, you are now instructed to proceed in the duties required by the decision in the Battin case, regardless of the injunction, and receive and file declaratory statements from actual settlers in all cases strictly falling within the ruling made in the Battin case, a copy of which decision has been transmitted to you, simply filing in the circuit court an answer denying its power to control your official action, and a motion to dissolve the injunction for want of such power, at the same time filing with the answer the argument herewith transmitted, presenting the views of the Department in reference to the action of the court. Having already retained counsel, you will advise him of the position taken by the Department, and that the only defense contemplated is that indicated above.

You will advise this office of all action taken under these instructions, and all further proceedings in court.

Very respectfully, your obedient servant,

JOS. S. WILSON,
*Commissioner.*

REGISTER and RECEIVER,
*United States Land Office, Des Moines, Iowa.*

In the mean time, by order of the Commissioner of the General Land Office, under direction of the Secretary of the Interior, the officers of the land offices at Fort Dodge and Des Moines opened their offices to admit pre-emption and homestead applications upon these lands.

The action of Secretaries Smith and Browning was brought before the Supreme Court at the December term, 1869, in the case of William B. Welles *vs.* Hannah Riley, not reported.

A copy of the opinion is appended, as follows:

December term, 1869.

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| HANNAH RILEY, APPELLANT, *vs.* WILLIAM B. WELLES. | No. 397. Appeal from the circuit court of the United States for the district of Iowa. |

Mr. Justice Nelson delivered the opinion of the court:

This is an appeal from the circuit court of the United States for the district of Iowa.

This case is not distinguishable from that of Wolcott *vs.* The Des Moines Company (5 Wall., 681). Welles, the plaintiff below, derives his title by deed from this company, the same as Wolcott in the former case. The suit in that case was brought to recover back the consideration-money from the Des Moines Company, the grantors, on the ground of failure of title. The court held that Wolcott received a good title to the lot in question under his deed.

In that case it was insisted that the title was not in the Des Moines Company, but in the Dubuque and Pacific Railroad Company.

In the present case the defendant claims title under, and in pursuance of, the pre-emption act of September 4, 1841.

Her husband took possession of the lot in 1855, and she was permitted by the register to prove up her possession and occupation May, 1862. The patent was issued October 15, 1863.

It will appear from the case of Wolcott *vs.* The Des Moines Company that the tract of land, of which the lot in question was a part, had been withdrawn from sale and entry on account of a difference of opinion among the officers of the land department as to the extent of the original grant by Congress of lands in aid of the improvement of the Des Moines River, from the year 1846 down to the resolution of Congress of March 2, 1861, and the act of July 12, 1862, which acts we held confirmed the title in the Des Moines Company. As the husband of the plaintiff entered upon the lot in 1855 without right, and the possession was continued without right, the permission of the register to prove up the possession and improvements, and to make the entry under the pre-emption laws, were acts in violation of law, and void, as was also the issuing of the patent.

The reasons for this withdrawal of the lands from public sale or private entry are stated at large in the opinion in the case of Wolcott *vs.* The Des Moines Company, and need not be repeated. The point of reservation was very material in that case, and we have seen nothing in the present one, either in the facts or in the argument, to distinguish it.

The decree below affirmed.

Also, in the case of Jesse C. Williams *vs.* William Baker *et al.*, December term, 1872, the Supreme Court say:

We therefore reaffirm, first, that neither the State of Iowa nor the railroad companies, for whose benefit the grant of 1856 was made, took any title by that act to the lands then claimed to belong to the Des Moines River grant of 1846; and, second, that by the joint resolution of 1861 and the act of 1862 the State of Iowa did receive the title to the use of those to whom she had sold them as part of that grant, and for such other purposes as had become proper under that grant.

The controlling fact in the Riley case, it will be observed, and the one on which the decision of the court is based, is that the lands were in a state of reservation when Riley sought to enter, and hence were not subject to pre-emption or homestead entry. The decision was, in effect, that Riley's case was without merit; but the court did not find that the lands were not the property of the United States or of the State of Iowa, and the court significantly adds that the "point of reservation was very material" in the Wolcott case.

By reference to the act of July 12, 1862, it will be seen that an equal amount of lands is authorized to be selected by the State as indemnity "for any lands which shall have been sold or otherwise disposed of by the United States before the passage of that act," which provision was added under the supposition that the lands within the railroad limits had, under the decision in the Litchfield case above cited, inured to the State under the railroad grant of 1856.

This opinion being maintained by the Land Department, an equal amount of lands was set apart in lieu of lands so supposed to be held by the State as railroad lands.

The act of July 12, 1862, also authorizes diversion of a portion of the improvement grant to railroad purposes, and by the act of settlement between the State and Navigation Company, and in accordance with the joint resolution of the legislature of Iowa above set out, the Keokuk, Fort Des Moines and Minnesota Railroad succeeded to all the rights of the State in and to the lands not used by the State in the settlement aforesaid, to aid in the construction of a railroad "upon and along the river." But as the Supreme Court in the Wolcott case held that the lands for which indemnity was selected inured to the State under the original act of 1846, and that the title thereof had not failed, hence the selection of the indemnity lands was erroneous, and no title passed to the State by reason of such settlement and selection. But on the 3d day of March, 1871, Congress passed an act confirming the Harvey settlement, and confirming the indemnity lands to Des Moines Valley

Railroad Company, successors of the Keokuk, Fort Des Moines and Minnesota Railroad Company, by the following act:

AN ACT confirming the title to certain lands.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the title to the land certified to the State of Iowa by the Commissioner of the General Land-Office of the United States, under an act of Congress entitled "An act confirming a land claim in the State of Iowa, and for other purposes," approved July twelve, eighteen hundred and sixty-two, in accordance with the adjustment made by the authorized agent of the State of Iowa and the Commissioner of the General Land-Office, on the twenty-first day of May, anno Domini eighteen hundred and sixty-six, and approved by the Secretary of the Interior on the twenty-second day of May, anno Domini eighteen hundred and sixty-six, and which adjustment was ratified and confirmed by act of the general assembly of the State of Iowa, approved March thirty-one, eighteen hundred and sixty-eight be, and the same is hereby, ratified and confirmed to the State of Iowa and its grantees in accordance with said adjustment and said act of the general assembly of the State of Iowa: *Provided*, That nothing in this act shall be so construed as to affect adversely any existing legal rights or the rights of any party claiming title or the right to acquire title to any part of said lands under the provisions of the so-called homestead or preempted laws of the United States, or claiming any part thereof as swamp lands.

Approved March 3, 1871.

It must be borne in mind that this act simply confirms the title to such lands as were embraced in the "adjustment made by the authorized agent of the State of Iowa (Harvey), &c.;" this adjustment expressly omitted and rejected all claims of the Navigation Company to the lands in question here, and therefore they are not aided by that act; and the proviso expressly protects the parties this bill is intended to aid, by preserving all *their* rights.

This act was construed by the Supreme Court in the case of The Iowa Homestead Company *vs.* The Des Moines Navigation Company, Wolcott *et al.*, December term, 1872, in which the court held as follows:

This case presents another phase of the Des Moines River land litigation.

The main question involved in this case is the question of title to the Des Moines River lands, which was settled several years ago by the decision in the cases of Wolcott & Burr (5 Wallace, 681), and in the subsequent and unreported case of Wells *vs.* Riley, adversely to the title set up by the appellants. At the present term of this court the principles involved in these decisions were reconsidered and reaffirmed. (See Williams *vs.* Baker, and the Cedar Rapids and Missouri River Railroad Company *vs.* Martindale and others.) It is, therefore, no longer an open question that neither the State of Iowa nor the railroad companies, for whose benefit the grant of 1856 was made, took any title by that act to the lands then claimed to belong to the Des Moines River grant of 1846, and that the joint resolution of 2d of March, 1861, and act of 12th of July, 1862, transferred the title from the United States and vested it in the State of Iowa for the use of its grantees under the river grant. * * * Although the ratification of the adjustment and the grant to the Valley Railroad would seem to be inconsistent acts, yet Congress, with full knowledge on the subject, on the 3d of March, 1871, confirmed the title to the State and its grantees. It is true the law by which this is done says it is in accordance with the adjustment, and the act of the general assembly of Iowa, but, as we have seen, this act not only ratified the adjustment, but also granted the lands to the Valley Road.

But this case—

In the case of R. S. Burrow *vs.* George Crilly, Supreme Court, December term, 1872, Justice Davis, in announcing the opinion of the court, used this language:

We have already decided that the Des Moines River lands were reserved from sale; and this reservation continued until Congress, by the joint resolution of 1861, released to the State for the use of its grantees the legal title still in the General Government, without any saving clause in behalf of settlers, or those who might claim under the pre-emption laws of the United States. This might have been a "*casus omissus*" on the part of Congress, but this court has no power to supply the omission. We are unable to see in this case any principle which has not been already passed upon by this court in some one of the suits relating to this protracted litigation.

Looking to the relief of this class of persons, a bill was passed in the Forty-second Congress as follows:

AN ACT to authorize the President to ascertain the value of certain lands in the State of Iowa, north of the Raccoon Fork of the Des Moines River, held by settlers under the pre-emption and homestead laws of the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President of the United States shall be, and he is hereby, authorized to appoint three commissioners, who shall ascertain the number of acres, and, by appraisement or otherwise, the value thereof, exclusive of improvements, of all such lands lying north of Raccoon Fork of the Des Moines River, in the State of Iowa, as may now be held by the Des Moines Navigation and Railroad Company, or persons claiming title under it, adversely to persons holding said lands, either by entry or under the pre-emption or homestead laws of the United States, and on what terms the adverse holders thereof will relinquish the same to the United States; and that they report the facts at the commencement of the next session of Congress; but nothing herein contained shall be held to affect, in any manner, the question of title to any of said lands.

SEC. 2. That the compensation of said commissioners shall be eight dollars per diem during the time they shall be engaged in said service.

Approved March 3, 1873.

In pursuance of this act a commission was appointed by the President, who made their report, and the same was presented to Congress at the commencement of the present session, and is Ex. Doc. No. 25, Forty-third Congress.

This action was not, however, satisfactory to those who had settled upon the lands in question under Government invitation and assurance of title. Much of the settlement dates back to 1855, and some portion even to a prior period, and numbers of people went upon the land, following the decision of Secretary Browning in the Battin case in 1868. All those who are upon the lands claiming to enter them under the general land laws of the United States are there in the most perfect good faith and reliance upon the acts of the Government through its duly authorized agents. They have an abiding faith still that the lands in question are the property of the United States, and will be so held by the Supreme Court in a case where the Government is a party asserting its claim of title.

The true intent of the various acts of Congress subsequent to that of 1846 was undoubtedly to protect *bona fide* settlers who went upon the lands in expectation of title from the State of Iowa or from the General Government. And no suit has yet been decided in which either the State of Iowa or the United States was a party, or in which the question of the rights of either the State or the nation were directly presented. On the contrary, the suits have in the main been collusive, and in all but a single one the court proceeds upon the basis of admission made in the record by the parties, the facts of which if put in issue *bona fide* might have made necessary an entirely different decision from that rendered. The title of the Navigation Company has never been attacked by any one entitled to plead its defects.

The contract between the State and the Navigation Company was in violation of the second section of the act of August 8, 1846, and the company never became entitled to the conveyance of an acre of the grant to the State, because after the date of that contract no certificates were made to the President in accordance with the second section of the act of 1846. The State was empowered to sell only when certain conditions were complied with. *This made the grant not absolute, but conditional*, and all parties to whom the State made sales had notice of the terms of the grant, and whatever they purchased in land exceeding the value of $15,000 in excess of the amount expended they purchased with notice that the sale was void. The purchaser took his title with

the same notice which the State had. The rule applies to this case that "in each case the person dealing with the agent, knowing that he acts only by virtue of a delegated power, must at his peril see that the paper on which he relies comes within the power under which the agent acts." (7 Wallace, 676.)

As a matter of fact, after June 1, 1854, no certificate by the governor was sent to the President of the United States until April 28, 1858, more than one month after the State had quit-claimed to the Des Moines Navigation Company its interest in lands already certified to it, and eighteen months after the improvement had been abandoned. This certificate, being in violation of the statute of 1846, is void.

On the 22d of March, 1858, when the State authorized a settlement of the claims of the Des Moines Navigation Company, it had no power to sell the 53,000 acres below the fork, much less the 213,493.79 acres above the fork, now claimed by the Navigation Company.

By the act of January 15, 1849, section 2, the State of Iowa agreed never to interfere with the primary disposal of the soil within the same by the United States, nor with any regulations Congress might find necessary for securing the title in said soil to the *bona fide* purchasers thereof. (Revision of 1860, p. 981.)

The State was estopped from making any contract with the Des Moines Navigation Company which was in violation of the second section of the act of 1846, and both the contract for the work and the contract of settlement and the conveyances thereunder by the State were in violation of the act of 1846.

As before stated, the Navigation and Railroad Company, in November, 1856, refused to go on with their contract and abandoned the work. The disagreement between the State and the Navigation Company growing out of the contract and the abandonment of the work was settled by a resolution of the Iowa legislature of the date of March 22, 1858, which was finally accepted by the board of directors of the Navigation Company, incorporated under the laws of Iowa, at their office in New York City, on the 15th day of April, 1858. By this arrangement the State of Iowa was to convey to the company all the lands approved and certified to her at that date by the General Government under the act of 1846, in payment of all claims of the company against the State on account of contract for improvement, except 25,000 acres sold by the General Government, and excepting what the State had sold prior to December 23, 1853. In pursuance to this resolution and its acceptance, the governor, during 1858, conveyed to the Navigation Company all the lands certified (they were only conditionally certified) to the State, with the exception above named, and by the laws of the State the deed could be only a quit-claim, so that any after-acquired title would not inure to the benefit of the Navigation Company.

The company was not a *bona fide* purchaser. The general deed above recited transcended the power of the governor, which was limited by the terms of the joint resolution of March 22, 1858. In point of fact, the general deed was only intended to cover such errors, discrepancies, and omissions as might have crept into the conveyance of particular tracts theretofore made.

An act of Congress, passed August 3, 1854, provides as follows:

That in all cases where lands have been, or shall hereafter be, granted, by any law of Congress, to any one of the several States and Territories, and where said law does not convey the fee-simple title of such lands, or require patents to be issued therefor, the lists of such lands which have been, or may hereafter be, certified by the Commissioner of the General Land Office, under the seal of said office, either as originals or

copies of the originals or records, shall be regarded as conveying the fee-simple of all the lands embraced in such lists that are of the character contemplated by such act of Congress, and intended to be granted thereby; but where lands embraced in such lists are not of the character embraced by such acts of Congress, and are not intended to be granted thereby, said lists, so far as these lands are concerned, shall be perfectly null and void, and no right, title, claim, or interest shall be conveyed thereby.

The State has sold above the fork 44,838 acres, acting under the conditional certificate of Secretary Stuart, prior to the passage of this act of 1854. It had not, at that date, sold any land to the Des Moines Navigation Company, but had simply contracted to sell. The certificate of Secretary Stuart, so far as it embraced lands above the fork, was declared by this act to be perfectly null and void. This act was notice to the Des Moines Navigation Company that 213,000 acres which they claim, as comprised in patents Nos. 9, 10, 11, 12, 13, and 14, issued May 3, 1858, on sales purporting to have been made May 14, 1855, and May 5, 1856, having been made after the passage of the act of August 3, 1854, were absolutely null and void. The sales made by the State itself to individuals, to the extent of 44,000 acres, were, all of them, made prior to the passage of the act of August 3, 1854, and the persons who bought were treated by the State and the United States as having an equitable title to the land, and their rights were protected by the joint resolution of 1861, which confirmed the titles of those who bought of the State in good faith. The Des Moines Navigation Company was not a purchaser in good faith, because its purchase was made when it had notice of the limitations of the law of 1846 and the provisions of the law of August 3, 1854. (See Brush *vs.* Ware, 15 Pet., 111.)

The joint resolution of Congress of date March 1, 1861, was designed for the protection of "*bona fide* purchasers under the State of Iowa."

Litchfield, a purchaser from the Navigation Company, brought ejectment against the Dubuque and Pacific Railroad Company, who claimed under the land grant of 1856. To defeat Litchfield it was only necessary to show that he had no title, and the court so held, on the ground that the act of Congress did not grant any land above the Raccoon Fork. The court says:

No authority was conferred on the executive officers administering the public lands to do more than make *partition* between the tenants in common, Iowa and the United States, in the manner prescribed by the act of Congress. The premises in dispute lie 60 miles beyond the limits of the tracts granted; it was, therefore, impossible to make partition, under this grant, of lands lying outside of its boundaries, and all attempts to do so were merely nugatory.

Under this decision, persons who had bought of the State and paid the full Government price for lands above the fork were left absolutely without title. The joint resolution of 1861 was passed for their benefit. This resolution is to be strictly construed, and is confined to the lands now held by *bona fide* purchasers from the State of Iowa. It did not and could not convey title to lands sold, or agreed to be sold, by the State of Iowa, after the 3d of August, 1854. Prior to April, 1860, settlers had gone upon the lands in good faith, believing from the decisions of the Department that the lands were open for settlement. But the officers refused to receive proofs, and they were compelled to wait until the title which the Navigation Company claimed had been judicially determined. After 1860 they filed their claims, these lands being liable to pre-emption and settlement. Mr. Litchfield filed his bill to enjoin the land officers from permitting settlers to file pre-emption papers. The court below dismissed his bill. The Supreme Court affirmed the decree of the lower court on the ground that the land officers had the right to decide whether the lands were liable to pre-emption or not, and

also on the ground that the settlers were not parties, and that the right of pre-emption was a valuable and recognized right which ought not to be destroyed without a hearing upon the part of the party interested. (Litchfield *vs.* Receiver, 9 Wall., 578.)

This bill asks that the remainder, for which the State obtained indemnity, shall be declared public lands; that the land officers may be empowered to receive proofs of pre emption or homestead claims, and the settlers may have the full benefit of the act of March 3, 1853.

Under the act of 1853, and the uniform practice of the Government, settlers were entitled to go upon lands reserved as belonging to any grant, and to pre-empt the same "after the lands have been released from reservation in the same manner as if no reservation existed." After the 3d of March, 1853, it was not illegal to settle upon the lands in question. They had been conditionally certified without prejudice. (See Newhall *vs.* Sanger, 2 Otto, 763; Huff *vs.* Doyle, 3 Otto, 564.)

In 1867 it was decided that the lands in question were not granted to the railroad company, because they had been "reserved" prior to that time as part of another grant. In that case Wolcott's title was held valid on the alleged and admitted statement that the State had sold and conveyed this land in accordance with the second section of the act of 1846, and that Wolcott was a *bona fide* purchaser to whom the title of the United States was released under the resolution of 1861.

Since the date of that decision the lands have been reserved from public sale, and the United States have brought no action or made any order to terminate this reservation, and the lands have never been released by any public notice of sale or instructions to the land officers to permit them to be sold by private entry by any officer of the General Government authorized to give such notice or instructions. And this tract of 297,000 acres, the title of the State to which failed, and for which the State received indemnity lands, remains to-day reserved from public sale or private entry.

It is claimed by the opponents of the bill that all the questions that can arise between the settlers and the Des Moines Navigation Company have been passed upon, and with some little asperity it is publicly stated, and in the public prints, that the bill proposes to reverse decisions of the Supreme Court. The case of Wolcott *vs.* The Des Moines Company (5 Wall., 684) was a suit for damages for breach of warranty of the deed of the company to Wolcott. In deciding the case the court said expressly, on page 684:

> The land in question is one of the sections thus selected and proved by the Secretary of the Treasury and *duly certified by the governor of the State to the President according to the second section of the act*, and was sold and conveyed among other parcels of land by the State to the defendants.

Whether this statement was true or not, it was made by the parties to the case, and on such a statement of fact it was held that the after-acquired title of the State inured to the guarantee. Had Mr. Wolcott made the point that the Navigation Company acquired that title after the passage of the act of August 3, 1854, and that the land was not sold in accordance with the terms of the second section of the act of 1846; and had the express point been made that the deed of the State of Iowa of May 18, 1858, only purported to convey "all lands *granted* by an act of Congress," &c., with the construction given in the Litchfield case, that the lands *granted* all lay below the Fork, the decision, your committee believe, would have been the reverse. But the point upon which Wolcott particularly relied was that the land had been granted under the act of 1856 for railroad purposes; and the court held

that the lands in question were reserved and were not conveyed by the act of May 15, 1856, to any railroad company. This decision was made in the spring of 1867; but the question of the settlement between the State and the United States of all claims under the joint resolution of 1861 or the act of July 12, 1862, were not before the court.

Williams *vs.* Baker (17 Wall., 152) was a case of contest between a grantee of the Navigation Company and a grantee of the railroad company. It was sufficient for the decision in that case to hold, as was held in the Wolcott case, that the railroad company took no title under the act of 1856. In this case the settlers were not notified to intervene, but only the railroad companies claiming title under the act of 1856 (p. 151).

The case of Riley *vs.* Wells was decided upon the ground that the land at the time pre-emption was sought to be made was not liable to pre-emption; and the court followed the Wolcott case in deciding this.

The answer of Hannah Riley (p. 10, case of Riley *vs.* Wells) avers that she entered upon the land in the year 1854, and that she had held and had possession of the land by virtue of her right as pre-emptor and her patent more than ten years prior to commencement of suit; that is, to the 1st day of February, 1859. She was beaten in the court below, and the decree confirmed in the Supreme Court.

The Homestead Company *vs.* The Valley Railroad Company (17 Wall., 162, 163) was a contest between the grantee of the railway companies and the Valley Railroad, the Homestead Company claiming under the land grant of 1856, the Valley Railroad Company claiming under the act of July 12, 1862, the adjustment by the State May 21, 1866, and confirmed by the State on the 31st of March, 1868, and by Congress on the 3d of March, 1871.

Again, it was held that the railroad companies took no title under the act of 1856. The court say:

> It is admitted in the record that the State has conveyed to the Des Moines Valley Railroad Company, one of the defendants to this suit, for good and valuable considerations performed by the company, all the land received by the State under the act in question July 12, 1862, except those only which had been conveyed by the State under the act of August 8, 1846, and the legislation pursuant thereto.

These admissions are not facts; the State did not, by its deed, convey any but the lands granted to it, viz, the lands below the fork.

It was held that the railroad companies had no right to the indemnity lands provided for under the act of July 12, 1862, as they never had any title which proved invalid. It is also held that the certificate of the Secretary of the Interior, under the act of July, 1862, was not sufficient to pass a valid title to the State, but that further legislation was necessary. That the State of Iowa, having made an adjustment and ratified it, the act not only ratified the adjustment, but granted all the lands passing under the act of July 12, 1862, to the Valley Road, and that Congress, with full knowledge that the legislature had parted with the land to the Valley Road, chose to confirm the title to the State and its grantees. That Congress had full power to grant the lands in place and the indemnity lands to be selected by the State to the Valley Railroad Company.

The settlers upon the 297,000 acres, conceded by the State to belong to the United States, or its grantees, were not parties to this suit. The case of Crilley *vs.* Burrows was decided at the same time adversely to Crilley, on the ground, as stated by Judge Davis, that it was "in no essential respect different from the preceding case."

The effect of the adjustment of 1866, so far as it relates to the rights

of the Des Moines Navigation Company, or the rights of th upon the public lands, has not been brought directly before the Court of the United States.

The settlement and adjustment of the grant of July 12, 1862, clusive upon the State of Iowa and its grantees, and no lands the State except those certified under this adjustment. It mu strued in connection with the constitution of Iowa of 1857, w vided:

The general assembly shall not locate any of the public lands which ha may be, granted by Congress to this State, and the location of which ma to the general assembly, upon lands actually settled, without the consent pant. The extent of the claim of the occupant so exempted shall not e hundred and twenty acres. (Sec. 7, art. 11, constitution of 1857, page 10 of 1860.)

The bill is confined solely to the rights of settlers upon th acres of land. The title of the State to the 297,000 acres havi the land belongs to the public domain, except so far as it has tled by *bona fide* settlers under the homestead or pre-emptic the United States. This bill authorizes the Attorney-Gene United States to institute suits, and the settlers who have in settled upon these lands to join in the suits to determine thei

The decisions heretofore given in cases where the settlers parties are not binding upon them. The cases where the sett parties, and were tried upon a statement of law and fact whic embrace the question of the invalidity of the title of the De Navigation Company, are not an estoppel to new suits by oth where a different state of facts may be shown. The rule of la

In all cases, therefore, when it is sought to apply the estoppel of a jud dered upon one cause of action to matters arising in a suit upon a differe action, the inquiry must always be as to the point or question actually li determined in the original action, not what might have been thus litigated mined. Only upon such matters is the judgment conclusive in another actio well *vs.* County of Sac, 4 Otto, 353.)

It was stated in the argument before the committee that th who claim to be *bona fide* purchasers of the Navigation Compan bonds of the Navigation Company which were secured by mo these lands, and that they exchanged these bonds for the land

The mortgage was executed August 27, 1855, to Daniel B. to secure the payment of bonds to be issued thereafter. The p of the bonds had full notice that the certificate of Secretary S null and void under the acts of 1846 and August 3, 1854, and were not entitled to receive these lands.

The Navigation Company had no legal title that could be th of mortgage.

The contract was not a sale. (Des Moines Nav. Co. *vs.* C Polk, 10 Iowa, 16.)

The title of the grantees of the Navigation Company is not ened by the fact that the lands were mortgaged to secure th they bought. (See Leavenworth, &c. R. R. Co. *vs.* U. S., 2 Ott

When an act granting railroad lands "made the constructio tions of the road a condition precedent to a conveyance of a parcel by the State," held: "No conveyance in disregard of th tion could pass any title to the company." (Farnsworth *et al.* & Pac. R. R. Co., 2 Otto, 65; Cedar Rapids & Missouri R. R County of Sac, 46 Iowa, 244–247; Miller *vs.* Corbin, 46 Iowa, 1

The substance of the case may perhaps be concisely stated as

The grant was only of land below the fork; this the Little

(23 Howard, 66, April, 1860) settles; and that all certificates and patents as to lands above the fork under the grant were void.

Prior to this decision Secretary Stuart had construed the grant to embrace lands on either side of the river above the fork to the northern boundary of the State, and had "conditionally certified" to the State, in these boundaries, 271,572 acres of land.

Of these the State had sold 55,990 acres, the title to which is not in contest; the balance are the disputed lands.

On this balance of the lands are settlers claiming that the lands are "public lands" subject to pre-emption entry, under the general land laws, as undisposed of public lands.

The Navigation Company bases its claim to these lands, as against the claims of settlers, upon the deed from the governor of Iowa of May 18, 1858, and the subsequent enactments of Congress, as well as judicial construction noticed in this report.

This deed, we think, only conveys "all lands granted by an act of Congress," &c., and this has been decided to be lands below the fork.

Because of the Stuart "conditional certification" the State assumed to have the power to sell, and many people bought, to the extent of 55,990 acres, and when Litchfield's case was decided they were without title. This necessitated the passage of the joint resolution of March 1, 1861, and, as the public and Secretary Browning believed, opened the lands to settlement above the fork.

But the Navigation Company, after a lapse of several years, comes in and asserts that it is a "*bona fide* purchase," under this resolution, and that by the deed of May, 1858, and the subsequent legislation it is entitled to all these lands, and hence the contest.

The difficulty with the settler is that his claim rests only on a "filing" or a purchase while the land was "reserved," and possession; and on refusal by the Land Office officials to recognize him he cannot have a standing in court so long as the "reservation" is unrevoked. The litigated cases which have been decided have all turned on other questions; many of them are clearly collusive, and decided upon erroneously "agreed state of facts," not one of them presenting squarely the precise question at issue, and we recommend what is asked: an assumption by the United States of any lands in place in the grant above the fork, and a recognition of the rights of pre-emptors and settlers, with a saving to all *bona fide* purchasers whose purchases do not conflict with such settlers.

If the bill is passed, it will become the duty of the Attorney-General of the United States to bring suits in the name of the United States to test the title of persons claiming under the State.

If the courts decide the Navigation Company has no title under the joint resolution of 1861 or the act of 1862, the Government can confer title on the settlers even where the former patents have been canceled. Where they have not been canceled, or where the parties hold pre-emption or homestead certificates, the settlers can intervene, and have the void title of the Navigation Company set aside as a cloud upon their title.

This controversy has continued for now over thirty years. During all that time a considerable portion of the lands in question have been in the actual occupancy of persons claiming to enter them under the general land laws of the United States. There are persons still residing on them who have been there continuously for over a quarter of a century. Others, again, are those who went upon the lands following, and

on the faith of, the decision of Secretary Browning in the Battin c in 1868.

All these men join in one request, and have now, as always, but theory about the controversy in which their all is at stake. They beli the Government has title to the lands they occupy, and ask that t one question, so vital to them, shall be decided by the United Sta courts in a suit brought for that purpose, and in which the Governme in their behalf and its own, shall attack the title of the Navigation C pany. This they cannot do for themselves, for the reason that, hav no patent, they cannot, in the present state of the law, get into cou and even if they had patents, they would be confronted at the thre old with a decision against them, upon the technical ground that e if the lands were still the property of the Government, they are in s a state of reservation by the act of the Secretary of the Interior, un the law of 1846, that they are not subject to settlement and entry un the general land laws of the United States.

The committee, while believing that the claim of the settlers is w founded, do not claim that the case is free from doubt. It is possi the Government has no title, and that that of the Navigation Compa is good in law. But even putting the case in its strongest possible pect against the settlers, there is, in the opinion of the committee, am warrant for the passage of the bill proposed. Such a suit as is auth ized therein will settle promptly and forever all the questions at iss and give peace to a community now torn and distracted as can only the case where there is a controversy, long continued, about titles to t homes of its members.

While the number of persons who are in possession of these lan holding adverse to the Navigation Company's title is not large, t doubt growing out of the controversy affects injuriously the entire bo of lands conveyed to the company by the State. The question of t validity of this title has been the principal subject of discussion in t locality for now nearly a generation, and has lost nothing of intens by the lapse of time. At local elections it is the one supreme iss overshadowing all others. It has retarded improvement, both mo and material, has been the cause of numerous tragedies, and operat as a general blight, growing more and more serious with the lapse time. The agitation has had a still wider effect. It has engaged t attention of the people of the entire State of Iowa, and the legislat of that State has repeatedly memorialized Congress for the passage a bill similar to that now proposed.

It is to be observed that this question does not affect merely t lands to be made the subject of the proposed litigation. While th are more directly at stake, still the effect upon the entire list of lan certified above the Raccoon Fork is all injuriously affected. The exi ing doubt as to the validity of the title prevents sale, or other dispo tion of the same. Parties who have purchased from the Navigat Company, and who are satisfied with their titles, but who find themsel cut off from the opportunity of sale and mortgage by reason of t doubt referred to, have urgently appealed to the committee in beh of the passage of some measure whereby authentic and final settleme of all doubts concerning title may be disposed of. The Navigation Co pany cannot dispose of the titles remaining unsold, nor can they enfo the payment of money due on account of sales already made.

Every interest, near or remote, connected with this unfortunate c troversy, will be promoted by the passage of the proposed bill; but t committee feel that the duty of Congress is especially to the poor a

led" the difficulty, and it is manifest that it will not be settled some such way as proposed by the bill under consideration. be observed that the bill limits the actual controversy to a tion of the lands in question, and quiets the title to the re- The only lands the title to which can be directly affected by of the suit to be instituted are those which were occupied settlers claiming the right to obtain title thereto under the on and homestead laws prior to January, 1880. The benefit vigation Company and its grantees if the bill under consider- ll pass is very great, relieving their title to much the larger n of their lands from doubt, and taking from the title the ow resting upon it. They ought, therefore, to favor the bill, f opposing it.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 491½.

# OMAHA NATIONAL BANK, OF OMAHA, NEBR.

FEBRUARY 13, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. MILLER, from the Committee on Banking and Currency, submitted the following

## REPORT:

[To accompany bill S. 1120.]

The Committee on Banking and Currency have carefully considered Senate bill No. 1120, and report the same back to the House of Representatives with an amendment; and, as amended, the committee recmend its passage.

*Amendment.*

In second line of bill strike out the words "authorized to," and insert in place thereof the words "when authorized so to do by a vote of shareholders representing two-thirds of the capital stock of said association, may."

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 492.

# DONATION OF CONDEMNED CANNON.

FEBRUARY 13, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. C. M. ANDERSON, from the Committee on Military Affairs, submitted the following

## REPORT:

[To accompany bill H. R. 1143.]

The Committee on Military Affairs, to whom was referred House bill 1143, having considered the same, report it back and recommend favorable consideration, and in support of their action submit and make a part of this report the following:

WAR DEPARTMENT,
*Washington City, January* 21, 1886.

SIR: I have the honor to acknowledge the receipt of your letter of the 20th instant, stating that House bill No 1143, Forty-ninth Congress, first session, "authorizing the Secretary of War to deliver to the Somerville Grand Army of the Republic of Somerville, Mass., four condemned gun-carriages, to be used for monumental purposes," has been referred to the Committee on Military Affairs, and asking, at the instance of a member of that committee, whether these gun-carriages can be donated to said organization by this Department without the authority of an act of Congress.

In reply I beg to inform you that it will require a special act of Congress to authorize the delivery of the gun carriages referred to, as there is no authority of law under which the Department can make the desired donation.

Very respectfully, your obedient servant,

WM. C. ENDICOTT,
*Secretary of War.*

Hon. E. D. HAYDEN,
*House of Representatives.*

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BOSTON, *December* 31, 1884.

MY DEAR COLONEL: I beg to call your attention to a bill recently introduced by honorable Leopold Morse, and referred to your Committee on Military Affairs, directing the Secretary of War to deliver to the Grand Army of Somerville, Mass., four condemned gun-carriages.

It is a small affair to your committee and to the Government, but I assure you it is a matter of great importance to us.

The case, in brief, is this: These carriages are condemned and unserviceable, of no earthly use to the Government, and have been lying in an old sand-heap in Plymouth Harbor for a long time.

The guns taken from said carriages were donated to our post of the Grand Army, by Congress, act approved, January 19, 1875. Owing to the lack of funds we have not completed our monument or soldiers' memorial. Recently the city council voted to aid in building said memorial, provided the carriages are secured on which to mount the guns, when they will be placed behind the identical earthworks thrown up by the American soldiers at the time of the battle of Bunker Hill.

Somerville of to-day was at that time a part of Charlestown. These works are on Central Hill, commanding Bunker Hill, Mystic River, and Boston, and as they are the only relics of the kind left of that great struggle, it is eminently proper that they should be carefully preserved. Our memorial will be erected on this line; the iden-

tical works can be saved and most appropriately marked for future genera mounting the guns we already have in connection with our memorial on carriages, which we now respectfully ask for. It will commemorate the v loyalty of heroes of the late war, as well as the patriotism and suffering of t men of Revolutionary fame.

It is not a local matter, but one in which Massachusetts and California, N and Kentucky, or Pennsylvania and Georgia are alike interested.

If you will call the matter up, and have it favorably reported to the Hous committee, at your earliest convenience, we shall feel under great obligation enabled to push our monument to a speedy completion.

In behalf of Willard C. Kinsley Post 139, Grand Army Republic.

HERBERT E. HI..
*Post Com*

Col. THEODORE LYMAN,
*House of Representatives, Washington, D. C.*

)NGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
'ession. } { No. 493.

# :H HOME FOR DISABLED SOLDIERS WEST OF THE ROCKY MOUNTAINS.

Y 13, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

I. ANDERSON, from the Committee on Military Affairs, submitted the following

## REPORT:

[To accompany bill H. R. 2075.]

*mittee on Military Affairs, to whom was referred the bill (H. R. to provide for the construction of a soldiers' home on the Pacific submit the following:*

' are five Homes for Disabled Volunteer Soldiers, all of which ted east of the Rocky Mountains, to wit: One at Leavenworth, one at Milwaukee, Wis., one at Dayton, Ohio, one at Augusta, d one at Hampton, Va.

ollowing table shows the number of inmates in these several in January, A. D. 1886; also the number of applicants for ad- to each:

| Homes. | Inmates January, 1886. | Absent on furlough. | Applicants for admission. |
|---|---|---|---|
| th | 217 | ..... | 461 |
| | 1,400 | 284 | 1,141 |
| | 4,498 | 916 | 998 |
| | 1,333 | 353 | 42 |
| | 1,656 | 419 | 25 |
| | 9,104 | 1,972 | 2,667 |

'ollowing statements made by the several governors of these will fully show the status and condition of the several Homes, vely, in the month of January, 1886, as well as the number ap- or admission, respectively marked A, B, C, D, and E.

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RAL BRANCH, NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS,
*National Military Home, Ohio, January 22,* 1886.

AL: I have your telegram this evening, and have wired reply, but this letter you by Monday. As you are aware, the limit of membership at this Branch by Board in September last at 4,400. We have had 47 beyond that number December, but 51 men took furloughs between December 20 and January 1 *sions were paid). Of men on short* furloughs and leaves, who are liable to

return within a few days, there are over 200 (with 716 others on longer furloughs), and the probabilities now are that in the early part of next month we shall have from 4,500 to 4,600 present. We have had as high as 197 sleeping on the floors; but, to say nothing of their discomfort, they were exposed not only to draughts and currents of air, but to accidents from their comrades moving about in the night. It was therefore decided to place bedsteads in all the passage-ways of the barracks, although almost under protest of our medical officers, inasmuch as such close packing destroys the ventilation. As stated in my telegram, we have 998 applications on file, 97 of which are approved and awaiting our call to fill vacancies that arise by death, discharge, or furlough.

There are men coming here almost every day, notwithstanding the published announcement that we are full, who are in such a broken-down condition that humanity compels me to take them in, though perhaps no better entitled to a home here than those who are at a distance awaiting vacancies.

I do not know that I can add anything more to show that we are crowded far beyond our accommodations, and I cannot see what we are to do much longer with those who are crowding in upon us from a distance, and who have not the means of returning to the places whence they came.

Very respectfully,

M. R. PATRICK,
*Governor.*

General JAMES S. NEGLEY, M. C.,
*Manager N. H. D. V. S., Washington, D. C.*

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SOUTHERN BRANCH, NATIONAL HOME FOR DISABLED SOLDIERS,
*Hampton, Va., January* 23, 1886.

GENERAL: In reply to your telegram, I have the honor to report members now present, 1,656; on furlough, 419, of whom many are liable to return any time. The past nine months I have been compelled to sleep men in the smoking-room, reading-room, and library, armory, in tents over 100. In fact, I have been compelled to use what spare room there is in the guard-house, and even bath-tubs—in short, wherever I could find space to put a bed has been occupied.

The men who are put up in this way have few conveniences and but little comfort. They have to depend upon the regular companies in barracks for such conveniences as they have, and thus a source of wrangling is created.

The papers are on file for twenty-five new men to arrive, and on the way here. For the past nine months an average of 15 per week have been notified that this Home is overcrowded.

The occupancy of the new hospital building by the patients, now in progress, will give us room to accommodate, after the fashion of months past, 1,700 for the winter, but on sanitary grounds, this number should be reduced as warm weather approaches.

To accommodate properly even the number now on our rolls, with the accommodations desirable and suitable for such an institution as this, would require the erection of barracks for 400 to 500.

I can make no estimate as to probable increase. We are in receipt of letters daily from parties in all parts of the country, stating that their physicians recommend their coming here on account of the climate, and they have to be denied.

I will state here that, in any case the number present should not be allowed to exceed 2,000, as we have not acreage sufficient in the property to give room for more.

I have been as concise as I can, but exceed the limits of an ordinary telegram, and therefore reply by mail. I could write at greater length, by entering into the minutiæ of the subject.

Respectfully,

P. T. WOODFIN,
*Governor.*

General JAMES S. NEGLEY, M. C.,
*Local Manager.*

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NORTHWESTERN BRANCH
NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS,
*Milwaukee County, Wisconsin, January* 22, 1886.

SIR: In response to your telegram received to-night, I have the honor to report as follows:

This branch of the Home was built to accommodate 800 inmates, and now has 1,400.

The kitchen, dining-room, hospital, laundry, and library were constructed on the eight-hundred basis.

For three months past a number of inmates have been sleeping on the floor, which is very uncomfortable in this climate, the mercury being frequently, below zero, —21° last night.

Cases that need hospital treatment are unable to have it, owing to the crowded condition of the hospital. They cannot have the care they need unless in the hospital.

It is necessary to set the tables in the dining-room twice for each meal.

The library, which is the principal source of diversion, is not half large enough.

There are on furlough 284 men, who are entitled to return at any time, and are constantly doing so.

There are on file 1,141 applications for admission.

I am, sir, very respectfully, your obedient servant,

JACOB SHARPE.

Hon. JAMES S. NEGLEY.

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EASTERN BRANCH NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS,
*Togus, Me., January* 23, 1886.

DEAR SIR: I received your telegram last evening and answered it at once, thinking you might need some information for immediate use. Our new barrack was ready for occupancy the 1st of this month and the men who were sleeping on the floors in the other buildings were transferred to the new wards. Blanks were sent to a sufficient number of applicants for admission to fill up all vacant spaces and we have now 42 applications on file awaiting any vacancy that may occur from discharge or death. But the men are now too closely packed for health or comfort. We are obliged to put forty men in wards where not more than thirty can live healthfully and comfortably. I am convinced that this is the cause of our increase in deaths, or at least, the primary cause, taken in connection with our limited hospital accommodations. Our hospital is crowded, and men have died in the wards who could not be received at the hospital for want of room in that building. I do everything I can to remedy and mitigate these troubles, but it is impossible to put a bushel of grain into a peck measure. The number of deaths during the quarter ending December 31, 1885, was 35; for the corresponding quarter in 1884 we lost 17. Taking the number cared for in 1885, compared with the number in the corresponding quarter in 1884, our deaths should have numbered 19 instead of 35. In my judgment, if the present law continues in force, we shall receive applications from men who are entitled to the benefits of the Home under the law, from the New England States and New York, in sufficient numbers to fill double the capacity of the Eastern Branch, this within the next three years.

Yours truly,

LUTHER STEPHENSON, JR.,
*Governor.*

General JAMES S. NEGLEY,
*Washington, D. C.*

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WESTERN BRANCH, NATIONAL HOME FOR DISABLED VOLUNTEER SOLDIERS,
*Leavenworth, Kans., January* 22, 1886.

GENERAL: I have yours, asking for the present status of this branch of the Homes, and am sorry not to be able to make a more agreeable report.

The first earth was turned in May last. Since that time there have been erected eight barrack buildings with a capacity of 120 men. These are simply under cover, not yet plastered. A dining hall that will seat 2,000 men is nearly ready for the roof. A boiler-house with seven boilers is in readiness to furnish heat. We have hung temporary doors, and set the radiators, so that the men could be as comfortable as our facilities permit. The men were first fed in the cellar of an old creamery, but are now called for in that particular in the basement of one of the new barrack buildings. A barn found on the place I used for a barrack, and 62 members slept comfortably until the intense cold weather forced a change, and I housed them in the attic of the new boiler-house, where 97 are now, and 120 in one of the unfinished buildings. The registering thermometer has indicated 29° below zero, and for the past six weeks has been very cold; it is now 12° below—such weather as I hoped I had left in Maine. Age, wounds, and general debility require more care and comforts than we are prepared to give. The pressure for admittance is so great that while I deny those who apply by letter I *cannot* refuse those who come in person, with an

honorable discharge, penniless, feeble, hungry, without a place to lay their head day we number 227 members, and I have on file 461 applications for admissio Central branch has 889 on file; the other branches are proportionately in th condition, and depend upon this branch to relieve the pressure.

I am, very respectfully,

ANDREW J. SMITH
*Gov*

General JAMES S. NEGLEY,
*Member Board Managers N. H. D. and V. S., Washington, D. C.*

The Board of Managers of Soldiers' Homes at a meeting of the December 17, 1885, passed the following resolution, to wit:

*Resolved*, That in the opinion of this Board it is expedient and a high duty United States to establish a branch Home for Disabled Volunteer Soldiers and eligible under the various statutes, in the State of California, for the Pacific c

Your committee are informed that many of the soldiers of the la who resided in many of the Northern States after the war have up their residences west of the Rocky Mountains, in States and tories, and their families and relatives reside there, and that the are acclimated to that locality, and that to enjoy the benefits of the other Homes it necessitates transportation of about two th miles and subjects them to a more rigorous climate.

Your committee are of opinion that $150,000 is sufficient for t poses contemplated by this bill, and recommend the passage of with an amendment striking out the word "two," in the tenth li inserting in lieu thereof the word "one," so that the bill shall for an appropriation of $150,000 for this purpose.

ıGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
ısion. } { No. 494.

# RACKS FOR DISABLED VOLUNTEER SOLDIERS.

13, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

. ANDERSON, from the Committee on Military Affairs, submitted the following

## REPORT:

[To accompany bill H. R. 5401.]

*ıittee on Military Affairs, to whom was referred the bill (H. R. ıaking appropriation for additional barracks at Southern, North-, and Western branches of the National Home for Disabled ;er Soldiers, submit the following rep rt:*

ır five Homes for Disabled Volunteer Soldiers, to wit: One at Me.; one at Hampton, Va.; one at Dayton, Ohio; one at Mil-Wis., and one at Leavenworth, Kans.
lowing table shows the number of inmates belonging to each Iomes present, absent on furlough, and applicants for admis-ıe date of January 22, 1886:

| | Inmates. | On furlough. | Applicants for admission. |
|---|---|---|---|
| ..... | 1,333 | 353 | 42 |
| ..... | 1,656 | 419 | 25 |
| ..... | 4,498 | 916 | 998 |
| ..... | 1,400 | 284 | 1,141 |
| ..... | 217 | None. | 461 |
| ..... | 9,104 | 1,972 | 2,667 |

ıumber admitted to all the Homes, 11,076.
ımmittee report that there is a gradual increase of inmates annu-ıe rate of 8 to 10 per cent. of total number admitted; that in ing June 30, 1881, there were in the several Homes, all told, ıe year 1882, 8,146; the year 1883, 8,626. Average present and ı all the Homes in 1884 were 9,056, while for year ending June the average present and absent in all the Homes was 9,995.
ɪeneral W. B. Franklin on oath, as a witness before the com-ınt by the Forty-eighth Congress to investigate condition of ımes, states in answer to certain questions put to him by the ;e, "that the annual increase of inmates to these Homes has n 7 to 8 per cent. of whole number of inmates, and that it is his gment that the maximum of inmates will not be reached be-;, and the number will steadily increase until that date."

Your committee report that the Home at Dayton has more inmates than ought to be at any one Home for the proper enforcement of discipline, and that on account of great scarcity of water this Home ought not and cannot be increased; that the Home at Hampton can be increased so as to furnish facilities for at least 500 more inmates than provided at present; that the Milwaukee Home can be increased so as to provide accommodations for 1,000 more inmates, and the Home at Leavenworth can be increased so as to accommodate 500 more than contemplated by the provisions of the law creating it. This provision, together with the establishment of a Home west of the Rocky Mountains, provided in another bill, agreed to by this committee, will furnish accommodations for all inmates now in and those who may be entitled to admission and are seeking admission, which we find to be about 2,500 at this time, and who are refused admission for want of accommodations, barracks, &c. The committee report the complaint is made in various localities that many of those who are entitled to admission to these Homes, and who are refused admission for want of room, are now cared for at poor-houses and infirmaries at public expense.

Wherefore the committee report the bill back, and recommend that this bill do pass.

CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 495.

# ANCH HOME FOR DISABLED SOLDIERS IN IOWA, NEBRASKA, MINNESOTA, COLORADO, OR DAKOTA.

FEBRUARY 13, 1886.—Laid on the table and ordered to be printed.

C. M. ANDERSON, from the Committee on Military Affairs, submitted the following

## REPORT:

[To accompany bill H. R. 1437.]

*Committee on Military Affairs, to which was referred the bill (H. R. 7) to establish a branch home for disabled soldiers in Iowa, Minne-a, Nebraska, Colorado, or Dakota Territory, submits the following re t:*

at this committee has reported two bills touching this same subject-er favorably, and do now report adversely on this bill and ask that lie on the table.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 496.

# BRANCH HOME FOR DISABLED SOLDIERS IN CALIFORNIA.

FEBRUARY 13, 1886.—Laid on the table and ordered to be printed.

Mr. C. M. ANDERSON, from the Committee on Military Affairs, submitted the following

## REPORT:

[To accompany bill H. R. 167.]

*The Committee on Military Affairs, to whom was referred the bill (H. R. 167) to establish a branch Soldiers' Home in California, submit the following report:*

That a similar bill for the same purpose having been reported favorably by this committee, they report adversely on this bill and ask that it lie on the table.

O

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
lession. } { No. 497.

# SALE OF GOVERNMENT PROPERTY.

r 13, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

CHEON, from the Committee on Military Affairs, submitted the following

## REPORT:

[To accompany bill S. 753.]

*mittee on Military Affairs, to which was submitted the bill (S. provide for the sale of the old site of Fort Brady, Michigan, and ew site, and the construction of suitable buildings thereon, respect- ubmits the following report:*

ill passed the Senate at the second session of the Forty-eighth , was reported favorably by the House Committee on Military but not being reached before final adjournment, it failed in that

the bill was before the Senate Committee on Military Affairs st session, that committee, through its chairman, called upon etary of War for such information and suggestions as would committee, and the Secretary of War replied as follows (Sen- rt No. 969):

WAR DEPARTMENT,
*Washington City, April 28, 1884.*

e Department duly received the letter from the clerk of the Senate Com- Military Affairs of February 2 last, inclosing, by your direction, S. 1374, provide for the sale of the old site of Fort Brady, Michigan, and for a new he construction of suitable buildings thereon," and requesting the opinion partment as to whether said bill should or should not be enacted into a law. ject having been referred to the proper military authorities, was fully re- on, and a draft of a bill modifying the one above mentioned, in accordance iews and recommedations submitted in said reports, is herewith inclosed. ial changes embraced in the draft referred to, as will be observed, are the in terms, from the proposed sale of all that portion of the reservation lying Water street extended, the provision for a *four*-company instead of a *two*- post, and the insertion of the sum of $120,000 as the amount to be appropri- e purposes of the act.

also a copy of the letter of the Lieutenant-General of the Army, submitting panying draft of bill to this Department, in which is embodied a brief of s of the military authorities, upon which the proposed modifications of the ill, as shown in the said draft, are based, and which, it is believed, are of acter as to commend the proposed modifications to the favorable consider- our committee.

y respectfully, your obedient servant,

ROBERT T. LINCOLN,
*Secretary of War.*

HN A. LOGAN,
*irman of the Committee on Military Affairs, United States Senate.*

Under date June 25, 1884, the Secretary of War furnished a map of the reservation and surroundings, which may be found in the papers. The communication of the Secretary of War of April 28, 1884, was accompanied by a letter addressed to him April 21, 1884, by Lieutenant-General Philip H. Sheridan, which explains fully why the site of the fort should be changed and the reasons for building a four-company post. The communication of the Lieutenant-General is inserted as an important part of this report, and is as follows:

HEADQUARTERS ARMY OF THE UNITED STATES,
*Washington, D. C., April* 21, 1884.

SIR: In compliance with instructions contained in your indorsement of the 16th instant, on communication from the clerk of the Committee on Military Affairs, United States Senate, dated Washington, D. C., February 11, 1884, referring, under instructions of Senator Logan, for the opinion of the Secretary of War, Senate bill No. 1374, "to provide for the sale of the old site of Fort Brady, Michigan, and for a new site, and the construction of suitable buildings thereon," I have the honor to inclose herewith new draft of a bill, which is a modification of Senate bill 1374, Forty-eighth Congress, first session, above referred to, and submit the following brief relative to the military reservation of Fort Brady, Michigan, compiled from the records of the Adjutant-General's Office.

Senate bill 1374 (Forty-eighth Congress, first session) provides that the Secretary of War be authorized to sell the military reservation known as Fort Brady, in the village of Sault Sainte Marie, Mich. (except such part as may be necessary for canal purposes), and to purchase suitable grounds in or near the said village and construct thereon buildings, &c., sufficient for a two-company post, to be known as Fort Brady, appropriating therefor a sum of money not exceeding ——— dollars.

February 11, 1884, the Senate Military Committee refers copy of this bill for the opinion of the Secretary of War "as to whether it should or should not be enacted into a law."

February 13, 1884, the Secretary of War directs reference of same to General Hancock for his views, and for a rough estimate to fill in the blank, as to the expense of the new post.

March 11, 1884, General Hancock returns same, recommending that the papers be referred to the Engineer Department, adding:

"General W. T. Sherman, U. S. A., in a letter dated July 12, 1879, recommended that Fort Brady be made a four-company post, and that the necessary buildings to make it so be constructed of brick and stone. Before abandoning the present site of the post, it should, I think, be definitely determined as to whether a proper site for a new post can be purchased, of what extent, and whether at a reasonable price. I would recommend that the new post be built for a garrison of four companies. The military cemetery should not be conveyed, and the Government dock and warehouses, together with the plat of ground in connection with it, referred to by Capt. Thomas Ward, First Artillery, assistant adjutant-general, and marked on the inclosed map "Reserve," should be retained. With these qualifications I see no objection to the sale of the present reservation and the removal of the post to a new site."

Captain Ward's report, referred to by General Hancock, is dated March 3, 1884, and is as follows:

"In making a personal examination of the location and surroundings of Fort Brady in May last, particularly with reference to target practice, the necessity for a change of site became apparent to me.

"The point is of great strategic value, and one that should be held by the United States, and garrisoned so long as our northern boundary remains as now.

"The progress in settlement, together with the construction of railroads, especially the advent of one from the Canadian side, now in course of construction with bridge to cross the Saint Mary's Rapids, near the great United States ship-canal locks at this point, renders a change in the location of the post to more commanding ground, southwest of the old site and half a mile from it, most necessary.

"In conversation with some of the most prominent citizens of the village of Sault Ste. Marie, I learned that a piece of land in the neighborhood I have reference to, for new site of post, containing about 40 acres, was purchased for $1,150 some years ago, and about two years since sold again for $3,000, and that the estimated value of the old reservation, with buildings, &c., was about $100,000.

"In disposing of the old military reservation, however, I would urgently recommend the retention of the Government dock and warehouse, together with the plat of ground in connection lying north of Water street extended, and west of Church street extended; and I believe that the new post should be constructed of brick or stone, and made of the capacity for four companies."

The chief quartermaster of the department approves the recommendation of Captain Ward as to the site for the new post, and thinks that a sum not less than $120,000 should be stated in the bill as a proper sum to be appropriated for the purposes of the act. General Perry, chief quartermaster, and Inspector-General Jones agree to the desirability of removing the garrison from its present location near the center of the village, where the reservation obstructs the traffic and communication of the people.

In accordance with the suggestion of General Hancock, the papers have been referred to the Chief Engineer, who returns them March 31, 1884, with report of Lieut. Col. O. M. Poe, Corps of Engineers, concurring in his views and recommendations, but as Colonel Poe's report relates altogether to another matter than the essential features of Senate bill 1374, it is not cited in this connection.

Pending the return of the foregoing from General Hancock, a communication was received from Hon. Ed. Breitung, M. C., dated February, 19, 1884, who, in connection with the before-mentioned Senate bill 1374, and referring to the implied power given the Secretary of War therein, called attention to a certain parcel of land, marked on accompanying map, which in his opinion should be reserved and made a part of "Claim 97," and asked whether in the event of the bill becoming a law, the tract in question would be regarded as necessary for canal purposes.

February 25, 1884, Secretary of War directs reference of this paper to the commanding general, Division of the Atlantic, for report.

March 17, 1884, General Hancock returns same with report of commanding officer of Fort Brady, giving the desired information, except as to the necessity for the retention of the piece of ground referred to for canal purposes.

The report is briefly as follows:

The piece of ground referred to by Mr. Breitung is at the northeast corner of the reservation, and in front of "claim 97," being between that claim and the river front. The history of said claim No. 97, as far as can be ascertained, is, viz:

"It was first owned about 1796, by a Mr. Champlan; from 1803 to 1823 by one Jean Baptiste Dubois; then by one John Drew, whose title was confirmed by a commission; then by one John Hart, who sold the same to the Right Reverend Bishop Rese, of Detroit, some time in 1835 (copy of deed of this purchase herewith). This lot was confirmed to the Catholic Church, under the title of lot "No. 97," by an act of Congress approved September 26, 1850, and a patent ordered to be issued to all of it (except the portion referred to by Mr. Breitung, which was accepted for the reason that it was on the military reservation and some of the public buildings of the post were standing on the same), upon the payment of $70.

"These papers were referred to the Chief of Engineers, and have been received back, under cover of the indorsement before referred to, which returned the papers received from the Senate Military Committee, inviting attention to the report of Lieutenant-Colonel Poe, which relates wholly to this matter."

Colonel Poe's report is as follows:

"By indorsement of the Secretary of War, dated December 31, 1883, upon an application of the canal authorities for transfer to the canal reservation of that portion of the military reservation situated north of the north line of Water street extended, the transfer was ordered and has been completed. This application for transfer was made after full consideration of the necessities of the canal, present and prospective, and nothing has been developed to change my views in regard to it.

"Fortunately, the printed bill recognizes these necessities, but, in my opinion, would be improved by definitely setting apart for canal purposes the entire portion already covered by the order of the Secretary of War.

"It will be urged that the canal does not need so much water front, but the experience of the past season, when vessels were sometimes crowded into the very jaws of the locks, waiting their turn to pass through, a condition of affairs which will grow worse with each coming year, shows that timely provision must be made, and my views on the subject are very decided.

"The Government should hold on to the water front of the military reservation, and should even take steps to acquire the 500 feet or more of water front now belonging to private owners between the former canal property and that recently transferred from the military reservation, which is held at about $75,000. This price, though high, gives some indications of what the water front transferred from the military reservation is really worth, and how tempting it is to any one who would like to get possession of it.

"From a report published in a Sault Ste. Marie newspaper, just received, of remarks made by Mr. C. S. Barker, it is learned that a strenuous attempt will be made to have this portion of the canal reservation vacated, upon the ground that it is necessary in order to obtain an outlet for the drainage of the village. This should have no weight, because the drainage can be effected at any point of that water front just as well while owned by the United States as if it were in the hands of private owners, and perhaps better.

"I can see no good reason for the transfer of the water front of claim No. 9 owner of that claim. They now have all that was confirmed to them. Th front would only be of service by being sold because of the price it would br if the owners of the claim have any equity in the matter it would be better Government to retain the reservation and pay the owners of the claim a rea sum of money in lieu of it; but I do not recommend this course until the fairly established. In short, I recommend that none of that portion of the military reservation recently transferred to the canal reservation be sold."

Very respectfully, your obedient servant,

P. H. SHERIDA
*Lieutenant-G*

The Hon. SECRETARY OF WAR,
*Washington, D. C.*

This bill being in accordance with the recommendations exp and regard being had for the favorable action hereon of the Sen of the House Committee on Military Affairs at the last session committee report back said bill (S. 753) favorably, and reco that the same do pass.

O

CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 498.

# MISSOURI HOME GUARDS.

RUARY 13, 1886.—Referred to the House Calendar and ordered to be printed.

ARGAN, from the Committee on Military Affairs, submitted the following

## REPORT:

[To accompany bill S. 216.]

e Committee on Military Affairs, to which were referred House bill , to authorize the Secretary of War to furnish certificates of discharge rtain members of the Missouri Home Guards, and Senate bill 216, on same subject, have had the same under consideration, and report bills back to the House, with the recommendation that said House 1374 lie upon the table, and that the Senate bill 216 do pass, and leave to adopt as their report on said Senate bill 216, Report No. first session Forty ninth Congress, submitted by the Committee on itary Affairs of the Senate on said Senate bill 216.

[Senate Report No. 23, Forty-ninth Congress, first session.]

*Committee on Military Affairs, to which was referred bill S. 216, have duly considered the same, and submit the following report:*

the last Congress, on February 25, 1884, Mr. Cockrell, from this committee, re- ted to the Senate a bill precisely similar to this—see S. Report 214 and bill S. 1518, ty-eighth Congress, first session—and said bill was passed by the Senate, and was acted upon in the House.

our committee now adopt the said report then made, as follows:

n February 12, 1884, the Adjutant-General of the United States Army addressed Ir. Cockrell, of your committee, a letter as follows:

WAR DEPARTMENT,
ADJUTANT-GENERAL'S OFFICE,
*Washington, February* 12, 1884.

R: As numerous applications have been received at this office for discharges from vice in the cases of members of the Missouri Home Guards, whose claims for pay re adjudicated by the Hawkins Taylor Commission, under the act of March 25, 1862, l the several acts supplementary thereto, and as no specific authority of law is ted in the Department to grant these requests, the act referred to providing only pay, bounty, and pension, I have the honor to invite your attention to the matter, th a view to such action as may be deemed just and proper, and to inclose herewith, your consideration, the rough draft of a bill which it is thought will remedy any ect in existing laws on this subject.

Very respectfully, your obedient servant,

R. C. DRUM,
*Adjutant-General.*

Hon. F. M. COCKRELL,
*United States Senate.*

Mr. Cockrell, on February 13, 1884, presented the bill inclosed to him in t going letter, and the same (S. 1518) was referred to your committee.

On the 28th of January, 1882, Mr. Cockrell addressed a letter of inquiry in to the Hawkins Taylor Commission to the Secretary of War, and received the ing reply:

WAR DEPARTMEN
*Washington City, February* 11,

SIR: In reply to your letter of the 28th ultimo, asking whether the Hawkin Commission, appointed under act of March 25, 1862, to visit the State of Mis adjust the claims of the "Home Guards," included in their action claims of t rolled Missouri militia," and also whether the same has been printed, and wha taken thereon, I have the honor to invite your attention to the inclosed repo Adjutant-General of the Army concerning the subject-matter of inquiry.

Very respectfully, your obedient servant,

ROBERT T. LINCOL
*Secretary of*

Hon. F. M. COCKRELL,
*United States Senate.*

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFIC
*Washington, February* 7,

SIR: I have the honor to return herewith the letter of the Hon. F. M. C United States Senator, in which he requests to be informed whether or not t mission formed by the President (known as the Hawkins Taylor Commission amine all claims arising under the provisions of the act approved March 25, 1 dited or considered claims of the "enrolled Missouri militia;" also whether th of the commission has been printed, and what action has been taken on said and in reply to report that, under the act approved March 25, 1862, the Secr War was authorized to allow pay, bounty, and pension to the officers and me ally employed in the military service of the United States prior to March 25, the Western Department, or Department of Missouri.

By joint resolution approved July 12, 1862, all payments under the act of M 1862, were suspended, and the President was authorized to appoint three sioners to examine all claims arising under the act before referred to, and re same to the Secretary of War within sixty days after the passage of the resolu

The commissioners appointed by the President under the joint resolution to were Hawkins Taylor, esq., of ——; Charles T. Sherman, esq., of Ohio; and T. Russell, esq., of Missouri.

By the joint resolution approved February 16, 1863, the provisions of the j olution of July 12, 1862, were revived, so as to allow the commissioners six after the 16th of February, 1863, within which to make their report.

The commission, under the law, could and did only allow claims for *pay* (p service pay), *bounty*, and *pension* for service rendered prior to March 25, 1862, approval of the act authorizing payment.

The commission allowed the claims of such organizations *only* as were call service by special authority of the commanding generals of the departments, a general invitation from them to form Home Guards, and which performed military service in the field under such calls.

The claims for *pay* and *bounty* allowed by the commission were paid at Sain Mo., by officers of the pay department of the Army, especially designated for th

The claims for *pension* allowed by the commission were to be settled by t rior Department and entered on the regular pension lists.

The original manuscript report of the commissioners is on file in this office, printed copies thereof appear to have been made.

The commission did not audit or consider claims of the "enrolled Missouri m as said militia were not ordered to be enrolled until July 25, 1862.

I am, sir, very respectfully, your obedient servant,

R. C. DRU
*Adjutant-Ge*

The Hon. SECRETARY OF WAR.

The act of March 25, 1862, referred to in the foregoing letter of the Adjuta eral, is as follows:

CHAP. XLIX.—AN ACT to secure to the officers and men actually employed in the Wester ment, or Department of Missouri, their pay, bounty, and pension.

*Be it enacted by the Senate and House of Representatives of the United States of in Congress assembled*, That the Secretary of War be, and he is hereby, authori required to allow and pay to the officers, non-commissioned officers, musicis

privates who have been heretofore actually employed in the military service of the United States, whether mustered into actual service or not, where their services were accepted and actually employed by the generals who have been in command of the Department of the West, or the Department of the Missouri, the pay and bounty as in cases of regular enlistment.

SEC. 2. *And be it further enacted*, That the officers, non-commissioned officers, musicians, and privates so employed who may have been wounded or incapacitated for service shall be entitled to and receive the pension allowed for such disability: *Provided*, That the length and character of their enlistment and service be such as to entitle them under existing laws to such pension.

SEC. 3. *And be it further enacted*, That the heirs of those killed in battle, or of those who may have died from wounds received while so in service, shall be entitled to receive the bounty and pay to which they would have been entitled had they been regularly mustered into service: *Provided*, That the bounty and pay referred to in this act shall not be payable unless their term of enlistment and service be of such duration as to entitle them to receive the same, according to existing laws.

Approved March 25, 1862.

The joint resolution referred to in the Adjutant-General's letter of July 12, 1862, is as follows:

[No. 51.] A RESOLUTION to suspend all payments under the act approved twenty-fifth of March, eighteen hundred and sixty-two, entitled "An act to secure to the officers and men actually employed in the Western Department, or Department of Missouri, their pay, bounty, and pension," and for other purposes.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of War be, and he is hereby, authorized and directed to suspend all payments under the act approved twenty-fifth March, eighteen hundred and sixty-two, entitled "An act to secure to the officers and men actually employed in the Western Department, or Department of Missouri, their pay, bounty, and pension;" and that there shall be appointed by the President, immediately after the passage of this resolution, by and with the advice and consent of the Senate, three commissioners, to examine all claims arising under the provisions of this act, and report the same, with the facts connected therewith, to the Secretary of War; said commissioners to have such compensation for their services as the Secretary of War may consider just and reasonable: *Provided*, That said commissioners shall be required to examine and report within sixty days after the passage of this resolution upon all such claims as may be presented by persons claiming to have been organized or employed in State of Missouri, and to have performed service according to the provisions of the said recited act, whereupon payments shall be made as recommended by said commissioners, a d as required by said act: *And provided further*, That within ninety days from the passage of this resolution the said commissioners shall examine and report upon all other claims arising under the act aforesaid, when payments shall be made as herein prescribed.

Approved July 12, 1862.

The joint resolution referred to approved February 16, 1863, is as follows:

[No. 19.] JOINT RESOLUTION to revive "An act to secure to the officers and men actually employed in the Western Department, or Department of Missouri, their pay, bounty, and pensions, and for other purposes."

*Resolved by the Senate and the House of Representatives of the United States of America in Congress assembed*, That the provisions of a joint resolution entitled "A resolution to suspend all payments under the act approved the twenty-fifth of March, eighteen hundred and sixty-two, entitled 'An act to secure to the officers and men actually employed in the Western Department, or Department of Missouri, their pay, bounty, and pension, and for other purposes,'" approved July twelfth, eighteen hundred and sixty-two, be, and they are hereby, revived, and the commissioners therein provided for shall be allowed six months from the passage of this resolution within which to make their report.

Approved February 16, 1863.

On May 14, 1862, the following act of appropriation was passed:

CHAP. LXIX.—AN ACT to provide for the deficiency in the appropriation for the pay of the two and three years volunteers, and the officers and men actually employed in the Western Department.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That there be, and hereby is, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of thirty millions of dollars, or so much thereof as may be necessary, to enable the Government to pay the two and three years volunteers called into the service of the United States, being an additional amount required for the fiscal year ending June thirtieth, eighteen hundred and sixty-two.

SEC. 2. *And be it further enacted*, That there be and hereby is appropriated, out of any money in the Treasury not otherwise appropriated, the sum of one hundred thousand dollars, or so much thereof as may be necessary, to carry into effect the act approved March twenty-fifth, eighteen hundred and sixty-two, to secure pay, bounty, and pensions to officers and men actually employed in the Western Department, or Department of Missouri.

Approved May 14, 1862.

The Commissioners appointed under said act of July 12, 1862, made their report to the Secretary of War, which is as follows:

SAINT LOUIS COURT-HOUSE,
*Saint Louis, Mo., September* —, 1863.

SIR: The undersigned appointed under General Order No. 64 to examine all claims arising under the act of Congress approved March 25, 1862, entitled "An act to secure to the officers and men actually employed in the Western Department, or Department of the Missouri, their pay, bounty, and pensions," have the honor to submit the following report:

Through the courtesy of the county court, a room was furnished in the court-house in the city of Saint Louis, where they met, and continued their daily sessions uninterrupted until this date. Owing to the very limited time given the Commission in which to examine and pass upon the claims arising under said act, one member of the Commission was sent to the State of Iowa to give information and collect evidence as regards claims arising in that State, and remained there some two weeks. At another time another member was sent to the State of Kansas for the same purpose, and remained about the same length of time; at all times continuing a majority of the Commission at Saint Louis for the transaction of business.

Immediately after our assemblage we appointed Dr. James Fletcher, of Kansas, as principal secretary, and shortly after A. C. Cummins, of Ohio, chief clerk. Subsequently and for different periods we employed the following persons as assistant clerks, viz: Thomas J. Sutton, Ferdinand Hess, Wm. H. Sirmscoe, Henry Rohe, and Peter A. Feldmear, and Joseph Taylor, messenger.

The services of Dr. Fletcher and Captain Cummins were very efficient and valuable. They are entitled to our thanks for their industry and attention to the business of the Commission. We cannot speak too highly of the valuable assistance and services rendered to us and to our business by the Hon. James H. Moss, the solicitor to the Commission. His untiring industry and his intelligence and legal skill lightened our labors and afforded much valuable aid in the investigation of all classes of claims before us.

A regular docket of all claims was carefully kept and public notice was given of our sessions in the leading newspapers published in Saint Louis, and in the States of Missouri, Iowa, and Kansas, giving notice of the sitting and organization of the Commission.

The Commission also issued a circular giving the laws under which they acted, together with instructions as to the form and manner of presenting claims, a copy of which is annexed.

The number of claims filed for services of companies was 274, of which number were allowed 247.

The number of individual claims was 307, of which 97 were allowed. Number of field and staff claims, 31; allowed, 28. The total amount allowed for claims of services of companies is $735,256.04, and for individual claims is $22,426.68, and for field and staff, $42,929.41. Total amount allowed, $800,612.13.

The amount claimed as due by the parties we cannot state, as the larger portion of the companies' claims stated only the time claimed and not the amount; but we doubt not but the aggregate sum claimed by the parties would amount to over $1,500,000.

No claim was allowed unless it was strictly for personal service in the military service, and all were not only required to show that they were called out or accepted by proper authority, but performed actual military service in the field as distinguished from services in organizing, drilling, recruiting, or in camp. We required proof of actual service other than the oath of the claimant, and generally the services were proven by the testimony of one or more disinterested witnesses or the certificate of well-known officers now in service. The services of a very great portion of the company claimants were necessarily desultory and not continuous. At the breaking out of the rebellion the State of Missouri had the misfortune to have her entire State government and a large portion of her American-born citizens either active sympathizers with the South or neutral in the contest. In some sections of the State nearly the entire population were loyal, in others almost entirely disloyal, and in others they were divided.

For months previous Governor Claiborn F. Jackson and the State authorities had been collecting powder, and lead, and arms, and organizing the militia of the State,

under the pretense of preserving the neutrality of the State, but really with the design of taking the State out of the Union. Everything seemed to favor their plans, and they would inevitably have succeeded had it not been for the foresight, boldness, and unswerving patriotism of General Nathaniel Lyon. He penetrated their designs and took prompt measures to defeat them, and unquestionably saved Missouri. He found the people of Saint Louis and the State divided in opinion; while the State authorities were organizing the militia for treasonable purposes, he encouraged the formation of home guards and other irregular forces, and by a few bold and decisive measures, such as the taking of Camp Jackson, completely destroyed and dispersed the open rebels and protected the public property and loyal citizens. At the time he had but a few hundred United States troops under his control, but with the aid of the irregular troops that he created and organized he accomplished his purpose. If, therefore, it was an object to save Missouri and the consequent control of the city of Saint Louis and the arsenal and the waters of the Upper Mississippi, and our vast Western Territories, the credit is all due to the brave Lyon and his home guards.

In every part of the State where there were Union men there was an organization of home guards. If the Union sentiment was strong in the country or district, a regiment was raised. If less strong, a battalion or single company. These organizations were called into service either by special authority from General Lyon or under a general invitation to form home guards, issued by him. When organized they reported to the commander of the department, and drew arms in whole or part. A large portion, however, was obliged, for want of arms, upon not being able to procure them to use their own private arms. In almost all cases they drew ammunition and subsistence while in actual service.

These organizations were kept up from one to six months, and in a few cases for a longer period of time. There are instances, particularly in Southwest Missouri, where, after the retreat of the United States forces, in the summer and fall of 1861, the organizations were retained, and, by occupying passes in the mountains, the flag of the Union was kept up, while the country for many miles around them was occupied by General Price and the rebels under him. When these organizations were disbanded, either by orders from the general commanding or from other causes, it can be said to their credit, and as an evidence of their loyalty, that a large majority of the officers and men went into the regular volunteer service, and are now in the field under "Generals Grant and Rosecrans," fighting for the cause of the Government in the effort to put down this cursed and causeless Southern rebellion.

This increased our difficulties and labors. In many cases there was neither muster-in nor muster-out rolls, and in other cases the authority for the organization and the rolls themselves were captured or destroyed by the rebels, and we doubt not there are companies that performed service whose claims have not been presented to us because of the absence of officers and men in the field now in service, and who have no knowledge of the existence of the Commission. Previous to the outbreak, at the suggestion of General Lyon, and for their own protection, many of these companies organized and armed themselves and patrolled through their respective neighborhoods, watching the movements of the disaffected. After hostilities commenced other companies organized, drilled, and protected their own and neighbors' property and the peace of the country, but for such service we have allowed no compensation. We have only allowed where their existing organizations have been regularly called out and actually served in the field under proper authority and in regular military capacity or service. Hence it will be seen that in a large majority of company claims we have only allowed part of the time claimed. We have sought to do justice between the claimants and the Government, and not pay them for time spent in service for the protection of themselves and neighbors or in preparing for active service. In other cases organized companies were called out by the proper authority for special services, and were then ordered home, and in a few weeks were called out again, and probably repeated. In these cases we have sought to ascertain the actual time they were in the field, and allowed them for such time.

The same principle was applied to individual claims. We have sought only to pay for actual service. We have favored no claims for recruiting, for organizing, for doing camp duty in and about Saint Louis or other cities, or for any other service, except it is in the strict line of the officer's duty, and in which he necessarily devoted his whole time.

There are numerous instances where claimants were appointed by the generals who have been in command of this department, and who have promised in good faith to recruit companies and regiments, but failed to obtain the minimum number required for a command, and the recruits have been assigned to other organizations and the officers discharged.

In these cases we refused to allow them pay for their time and expenses, for the reason that they have not rendered the actual military service contemplated by the law under which we act. It may also be added that they accepted their appointments with the understanding that they should raise the men required for the command

they sought, and, if successful, a commission would follow; if they failed, they lost their time and expenses. Such, we understand, has been the practice in the Western States. In other cases claims have been presented by officers for service rendered between the time of appointment and time of being mustered into the service of the United States. This class of claims were all rejected, in accordance with the practice in the State government and agreeable to the instructions of the Solicitor of the War Department. We have been obliged necessarily to exercise discretion and adopt rules as regards the amounts to be allowed that are not known or recognized by the Army Regulations. But in these cases we thought justice to the service and the claimant required some allowance should be made. The amount allowed is universally less than the amount named in the regulations. The cases alluded to are chiefly surgeons and chaplains.

A large proportion of the companies claim that the services performed were as cavalry, each man furnishing his own horse and horse equipments, and therefore entitled to the usual pay and allowance for such service. With few exceptions we refused to allow such claims. It was in evidence before us that the service was either cavalry or infantry, as the exigencies of the time required; the forage for the horses was furnished by Government when in actual service; and in the opinion that it was better for the owners to use their horses in the service, and thereby prevent them from being taken by the rebels, for this reason, mainly, we have allowed no pay for horses only when it was proved clearly that the company was organized as cavalry, and that by special authority from the general commanding having such authority. There have been many cases presented for subsistence, transportation, and other expenses attending this service, but the law under which we were acting, in our opinion, gave us no jurisdiction over such cases.

The amounts are generally small, and in the hands of loyal men, who have suffered in the cause. We would therefore respectfully recommend that this class of cases be promptly investigated and paid. It appeared upon investigation that two regiments from the State of Iowa, under the command of Colonels Morledgs and Edwards, and one company under Capt. W. C. Jones, were called out by proper authority, and did service in Missouri. That the legislature of Iowa made provisions for the payment of the officers and men, and that part have been paid, and the balance are being paid upon presentation of their claims. Satisfactory evidence was produced of their service and that the claim was within our jurisdiction, but as the State of Iowa had partly paid them and had assumed the payment of the balance, we did not enter them upon our books, but gave the State officers a certificate of facts that will assist the State in settling the same with the War Department.

No claims were presented from the State of Kansas, though we were advised that services were rendered by officers and men that would properly come within our jurisdiction. None were presented, probably because of the absence of officers in active service in the field and the distracted condition of things in that State.

Among other claims presented to us were some for services rendered as "spies and scouts," employed by the different commanders of the department. The services were performed either by regularly-organized companies, or bands, or by individuals. We are satisfied that the services were performed, that they were valuable and dangerous, and should be paid; but in the absence of any rule of compensation established, either by law or custom, or of a knowledge on our part of the prices usually paid, we have inserted the names of the companies and individuals on our books, leaving the Department to give the customary compensation to such persons for such services.

By reference to our books the claim of Capt. J. M. Richardson's company will be found in vol. 1, on page 112.

That of Capt. Emory S. Foster's company will be found in vol. 1, on page 96.

That of Cicero A. Lewis in vol. 1, page 53.

That of Jenisha Page in vol. 1, page 53.

The paper annexed hereto marked A contains a statement of our expenditures, and are the vouchers for such payments.

Herewith is $1,983.80, the balance of the money placed in our hands to pay the expenses of the Commission.

HAWKINS TAYLOR,
CHAS. T. SHERMAN,
FRANCIS T. RUSSELL.
*Commissioners.*

I have carefully concurred in the findings of my associate Commissioners so far as they go, as giving thus much to the early and worthy defenders of my State; but to the brave and ruined men of the Southwest and the Northwest, I deeply regret that a little more could not have been awarded.

In the matter of pay for horses, too, I respectfully submit that I have steadfastly differed with them. I take the ground that the law directing us to allow pay to

officers, non-commissioned officers, musicians, and privates who have been heretofore actually employed in the military service of the United States, whether mustered into actual service or not, when their services were accepted and actually employed by the generals, &c., the same pay as in cases of regular enlistment, authorized us to allow to private soldiers using their horses in a mounted service the Army pay in such cases.

The argument of risk to horses at home, and that they were put in the Army for safety and fed by the Government, is of no force if the Government really used them. And, besides, if it is valid, it goes too far, and would on its own principle exclude thousands of the men too, for to my certain knowledge thousands of exposed Union men in Missouri could not stay at their homes, and went to the service for safety, at least in part, and were there both fed and clothed. Many poor Union men have ridden to death in this service, and some of them had killed under them, their only horse, and that, too, without pay per diem or a valuation.

Of course we have no jurisdiction to award an allowance for the valuation of such horses. The enemy were well mounted, and against them infantry was mostly useless, and the horses of these men were needed, accepted, and hardly used by our Government, and, I hold, should be paid for.

I also wish to call attention a little specially to the matter of transportation and supplies for these home guards, and to add my sincere regret that these matters were clearly outside our jurisdiction.

It is shown on the rolls and by other good evidence that almost every company used from two to four wagons, hauling for them in their campaigns, and necessarily so, and had them of the best of Union men. Some of these teams were lost and worn out by the chances and service of war, and should be paid for accordingly by the Government.

The same is true of supplies for these troops, who, being deficient in ordinary army experience and of facilities for procuring them, and forced by want to have them, procured bacon, flour, groceries, horse-feed, and all necessaries at large from both farmers and merchants. Many of these were violent Union men, who thus upheld our cause with their own means when it could not be bought elsewhere, and did it for the sake of the cause, and did it, too, to prevent injury to our cause by violent seizures.

I beg leave to be thus earnest on these points because I myself only of the Commissioners have had opportunity for personal experience and observation in regard to them. The cases in both classes are mostly small claims, but numerous, and held by needy persons, and are susceptible of plain and clear proof, and I earnestly insist should be early provided for and paid.

F. T. RUSSELL,
*Commissioner.*

Hon. E. M. STANTON,
*Secretary of War.*

WASHINGTON, *September* 21, 1863.

The Commission when in Saint Louis neglected to state that proof was made to them that Colonel Epsteim, of the Boonville Home Guards, advanced money and supplies to his officers and men, with the agreement that the money so advanced by him should be deducted from their pay and paid to Colonel Epsteim when the Government made payment.

In volume No. 2, pages 236, 237, 238, 239, 240, 241, 242, and 243 will be found his companies. There is a column in each showing the amount advanced to each officer and man. All these sums should be paid to Colonel Epsteim.

HAWKINS TAYLOR,
*Chairman Commission.*

A.

*Expenses of the Commission designated under General Order No.* 64, *current series, of the date of March* 16, 1863, *from War Department.*

| | | |
|---|---|---|
| Hawkins Taylor, 189 days, at $8 per day | $1,512 00 | |
| Mileage to and from Washington and to and from Iowa | 192 00 | |
| | | $1,704 00 |
| Col. Charles T. Sherman, 189 days, at $8 per day | 1,512 00 | |
| Mileage to and from Mansfield, Ohio | 60 00 | |
| | | 1,572 00 |
| Col. F. T. Russell, 189 days, at $8 per day | 1,512 00 | |
| Mileage | 72 00 | |
| | | 1,584 00 |
| Col. J. H. Moss, 189 days, at $8 per day | 1,512 00 | |
| Mileage from Liberty and back | 48 00 | |
| | | 1,560 00 |

| | | |
|---|---|---|
| Dr. James Fletcher, 163 days, at $6 per day | $978 00 | |
| Mileage | 78 00 | |
| | | $1, |
| Capt. A. C. Cummins, 148 days, at $5 per day | 814 00 | |
| Mileage | 30 00 | |
| Thomas J. Sutton, 107 days, at $3.50 per day | 374 50 | |
| Mileage | 9 00 | |
| Titan A. Feldman, 20 days, at $3 per day | | |
| Henry Rohn, 120 days, at $1 and $3 per day | | |
| Frederick Hess | | |
| William H. Sirmscoe, 28 days, at $3 per day | | |
| Witness fees | | |
| Advertising | | |
| Incidental expenses, stationery, &c | | |
| Joseph W. Taylor, messenger | | |
| Total | | 9, |

On January 22, 1864, the following act was past:

CHAP. III.—AN ACT to provide for the deficiency in the appropriation for the pay of officers actually employed in the Western Department, or Department of Missouri.

*Be it enacted by the Senate and House of Representatives of the United States of A in Congress assembled*, That there be, and hereby is, appropriated out of any mo the Treasury not otherwise appropriated, the sum of seven hundred thousand si dred and twelve dollars and thirteen cents, or so much thereof as may be nec to carry into effect the act approved March twenty-fifth, eighteen hundred and two, to secure to the officers and men actually employed in the Western Depar or Department of Missouri, their pay, bounty, and pension: *Provided, however,* in the payment of the money hereby appropriated such payment shall be m rectly to the officers or soldiers by whom the services were rendered, or to the sonal representatives, or to their agents appointed by powers of attorney, and signment of any sum due to any officer or soldier shall be valid; such paym be made by paymasters of the United States Army: *Provided, further, however,* Th person holding a power of attorney authorizing the receipt by him of the amo be paid to any officer or soldier may, upon making and filing an affidavit to th that he is acting in the premises purely as agent without personal interest, an he will pay over the amount received either to the soldier or (in his absence) wife or children for their benefit, be entitled to receive such amount.

Approved January 22, 1864.

Under the foregoing laws and proceedings the Missouri Home Guards wer for services, and bounty, and their pensions provided for by the authority United States, but no provision was made for certificates of discharge to be iss them.

This bill is simply to remedy this omission, and to authorize the Secretary to furnish, upon application thereof, to each member whose claim for pay wa dicated by the Hawkins Taylor Commission a certificate of discharge, whi carry with it no right or color of claim to any pay, allowance, or compensa any kind.

Your committee recommend the passage of the bill.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 499.

# RENEWAL OF ARTIFICIAL LIMBS.

FEBRUARY 13, 1886.—Laid on the table and ordered to be printed.

Mr. FINDLAY, from the Committee on Military Affairs, made the following

## REPORT:

[To accompany bill H. R. 1834.]

The Committee on Military Affairs, to whom was referred House bill 1834, beg leave to report that they have had the same under consideration, and find that the bill proposes to change the period for renewal of artificial limbs from five years, as now provided by section 4787 of the Revised Statutes, to three, the supposition of the author of the amendment of course being that the longer period did not accomplish fully the benevolent object of the act.

Upon this point the committee have requested the views of the Surgeon-General of the Army, and have received from him an opinion as to the life of an artificial limb, which is clearly against the relief proposed by the amendment.

According to this opinion, which is herewith appended in full, experience has fully proved that an artificial limb will continue in good condition for five years or for a longer period, provided it has been used with reasonable care.

On inquiring of the same officer, it also appears, from a letter herewith appended, that every precaution is taken by the medical department of the Government to prevent the soldier from being victimized by careless or frandulent manufacturers of artificial limbs; and the committee have also been informed by the same authority that if by any mischance or inadvertence a bad or defective limb has escaped the scrutiny of the inspecting officer to the prejudice of a soldier, a fresh and perfect limb is immediately substituted in its place at the expense of the United States.

On this state of proof, and with no evidence to the contrary, the committee feel constrained to report the bill back to the House with a recommendation that it do not pass.

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WAR DEPARTMENT, SURGEON-GENERAL'S OFFICE,
*Washington, D. C., January 22, 1886.*

SIR: I have the honor to return House bill 1834, which proposes to amend section 4787 of the Revised Statutes by substituting the word "three" for the word "five" wherever the latter occurs in that section.

The effect would be to shorten to that extent the periods between the successive issues of artificial limbs to persons disabled in the military or naval service of the United States.

In connection with this bill you ask the opinion of this office as to the durabili of artificial limbs. Their duration necessarily depends upon the fidelity with whi they are made, the amount of work to be performed, and the care taken for their pr ervation. Experience has fully proved that, with reasonable care, a well made lin should continue in good condition for five years or more. Instances are not unfr quently brought to the notice of this office of artifi ial limbs which have been wo constantly for ten years, or for even considerably longer periods.

In my opinion the term of five years should be retained in the interest of all partie

It may be observed that by far the greater number of applications are not for ar ficial limbs, but for their money value, and legislation in the interest of this lar class to secure more frequent payments seems to be, in my opinion, of doubtful utili or propriety.

Very respectfully, your obedient servant,

R. MURRAY,
*Surgeon-General U. S. Army.*

Hon. JOHN V. L. FINDLAY, M. C.,
*House of Representatives.*

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WAR DEPARTMENT, SURGEON-GENERAL'S OFFICE,
*Washington, D. C., January* 25, 1886.

SIR: In reply to your communication of the 23d of January, 1886, I have the hon to inform you that the soldier is allowed a reasonable choice, within a certain ge graphical district, of a limb or apparatus from one of the many manufacturers w are on the approved list of this office. This choice is so restricted that unnecessa expense to the Government be avoided.

Unless the inspection be expressly waived by the applicant, every limb is inspect at the time of fitting, by a competent surgeon, in the presence of the manufactu and the wearer, in order to secure a proper fit and good material and workmansh Either the inspector or the soldier has the right then to reject anything that is uns isfactory. The manufacturer is under bonds to make good any original defect th may be discovered within five years, without charge either to the Government or t soldier.

The term "apparatus" is construed to include any mechanical appliance to supp or strengthen a limb that has not been amputated. In the act of August 15, 18 chap. 300, the word resection is omitted.

Very respectfully, your obedient servant,

R. MURRAY,
*Surgeon-General U. S. Army.*

Hon. JOHN V. L. FINDLAY, M. C.,
*House of Representatives.*

O

CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 500.

# MBURSEMENT OF NATIONAL HOME FOR DISABLED VOLNTEER SOLDIERS FOR FAILURE OF EXCHANGE NAIONAL BANK, OF NORFOLK.

UARY 13, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

NEGLEY, from the Committee on Military Affairs, submitted the following

## REPORT:

[To accompany bill H. R. 4232.]

*Committee on Military Affairs, to whom was referred House bill 4232, ave carefully considered the same, and submit the following report:*

he facts upon which this claim is based were found to be as follows: ursuant to the regulations of the Board of Managers and the spe- instructions contained in a letter of the Secretary of the Treasury, opy of which is made a part of this report—

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
*Washington, D. C., November 2, 1882.*

IR: Referring to that part of your letter of the 20th ultimo, addressed to the Treas- r of the United States, in which you ask whether deposits made by the treasurers he several branches of the National Home for Disabled Volunteer Soldiers are pub- moneys, I have to inform you that all moneys pertaining to the accounts with the ted States of the officers referred to are public funds, and should be deposited with Treasurer, an assistant treasurer, or a designated depository of the United States ly.

Very respectfully,

CHAS. J. FOLGER,
*Secretary.*

General WILLIAM B. FRANKLIN,
*President National Home for Disabled Volunteer Soldiers, Hartford, Conn.*—

illiam Thompson, treasurer of the southern branch of the National me for Disabled Volunteer Soldiers, had on deposit with the Ex- ange National Bank. of Norfolk, Va., April 3, 1885, the day of its fail- , the sum of $27,604.82, credited to the following accounts:

| | |
|---|---|
| the support of the Home | $2,276 73 |
| sion fund (unexpended) | 17,419 98 |
| e fund | 7,713 83 |
| thumous fund | 194 28 |
| Total | 27,604 82 |

There has been realized from the assets of said bank since its failure sum of $7,342.36, leaving due the Home the sum of $20,262.46, with prospect of collecting the same.

The president of the Board of Managers addressed a communication the Secretary of the Treasury under date of June 11, 1885, request-

ing that the said balance should be made good by the bank. Agai July 31, 1885, he submitted a brief of the case to the Secretary o Treasury, asking speedy action. The subject-matter was referred b Secretary to the Solicitor of the Treasury for an opinion. This o decided that the upaid balance due the Home could not be legally out of the proceeds of the sale of the bonds heretofore pledged for t curity of public moneys by the bank. The president of the Boa Managers filed exceptions to this decision, and received in reply th owing:

TREASURY DEPARTMENT, OFFICE OF THE SECRETARY,
*Washington, D. C., December 28, 1*

SIR: I have received your letter of the 23d instant, requesting that there be re to the Department of Justice all the papers in the matter of the decision of th partment that the pension money of pensioners of the Southern Branch of Na Home for Disabled Volunteer Soldiers in the Exchange National Bank, of N Va., when that public depository failed, is not public money.

In reply you are informed that the receiver of the bank having formally pre against the payment of this account from the proceeds of the sale of the United bonds held in trust as security for public deposits, the matter was referred to t licitor of the Treasury for his opinion as to whether it would be proper for me from the proceeds of the sales of the security bonds the amount standing on the of the bank to the credit of the treasurer of the Home.

The solicitor after three times carefully considering the matter decided tha $2,276.73, the amount to the credit of the National Home for which returns we dered to the Department, could be so paid. This amount was paid in full fro proceeds, and the remainder turned over to the Comptroller of the Currency fo benefit of the creditors and merged with the general funds of the bank.

Since then the Comptroller has paid the first dividend of 20 per cent. on c proved against the Exchange National Bank, including those of Mr. William Th son, treasurer, as follows, viz:

| | Amount of claim. | Div of e |
|---|---|---|
| Pension fund | $17,419 98 | $ |
| Home store | 7,713 83 | |
| Dead soldiers' effects | 194 28 | |
| Trustee Robert Mallow | 513 75 | |
| Trustee Charles Schott | 105 75 | |

Having disposed of the proceeds of the bonds, and the treasurer of the Home received the first dividend of 20 per cent., I must now decline to refer the pa the Attorney-General, as requested by you.

Respectfully, yours,

D. MANNING
*Secr*

Generel WILLIAM B. FRANKLIN,
*President of the Board of Managers*
*National Home for Disabled Volunteer Soldiers, Hartford, Conn.*

It will appear from the tenor of the Secretary's letter that the p system of making deposits of the funds of the Home with United depositores is defective and open to misuse and misconstructio that it is advisable to provide against all future emergencies o character by requiring that all the moneys of the Home deposi public institutions should be secured by a pledge of bonds in an a satisfactory to the Secretary of the Treasury. This your com recommends.

Waiving all consideration of the view taken of the responsibi the Exchange National Bank to pay the balance due the Home the sale of its securities, it is conceded that the president and tre of the Home acted in strict conformity with the instructions of th

of the Treasury; also, that he has shown proper vigilance in en-
ring to secure the payment of the deficit; and it is equally clear
nclusive that the beneficiaries were without any volition in the
es, and to withhold under any pretense the moneys due the old,
, and helpless inmates of the Home, or their dependents, would be
esty of the principles of humanity, patriotism, and common hon-

h this view of the case, your committee unhesitatingly recommend
k for the passage of the bill.

NGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
ssion. } { No. 501.

# FORT SELDEN MILITARY RESERVATION.

RY 13, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

MENTROUT, from the Committee on Military Affairs, submitted the following

## REPORT:

[To accompany bill H. R. 661.]

*mmittee on Military Affairs, to whom was referred the bill (H. R. ranting the right of way through the Fort Selden Military Reser- s, in New Mexico, to the Rio Grande, Mexico and Pacific Railroad any, make the following report:*

bill is in accord with settled legislative precedent. The road is nstructed and operated through this reservation by military The allowance of 100 feet in width is one-half only of the ranted by the general right-of-way act of March 3, 1875, and grants of right of way to land-grant railroads. The company structed its road without Government aid. It gives rail com- ion with this fort, and thereby largely reduces the cost of trans- troops and supplies thereto.

ecretary of War reports in favor of the measure. It was favor- orted to and passed by the Senate in the last Congress, but as was not introduced in the House, the Senate bill was received House too late for action.

ommittee recommend the passage of the bill.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 502.

# TO REGULATE MAIL SERVICE.

FEBRUARY 13, 1886.—Laid on the table and ordered to be printed.

Mr. T. B. WARD, from the Committee on the Post-Office and Post-Roads, submitted the following

## REPORT:

[To accompany bill H. R. 4359.]

The Committee on the Post-Office and Post-Roads have had under consideration House bill No. 4359, and are of the opinion that the legislation contemplated is wholly unnecessary, and recommend that said bill lie upon the table.

O

NGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
ssion. } { No. 503.

# ELIVERY OF MAIL MATTER AT POST-OFFICE.

FEBRUARY 13, 1886.—Laid on the table and ordered to be printed.

. WARD, from the Committee on the Post-Office and Post-Roads, submitted the following

## REPORT:

[To accompany bill H. R. 3052.]

ommittee on the Post-Office and Post-Roads have had under ation House bill No. 3052, and are of the opinion that the legis- ntemplated is unnecessary.

mmittee recommend that the bill lie upon the table.

GRESS, } HOUSE OF REPRESENTATIVES. { REPORT
sion. } { No. 504.

# PEOPLE TO NAME POSTMASTERS.

EBRUARY 13, 1886.—Laid on the table and ordered to be printed.

WARD, from the Committee on the Post-Office and Post-Roads, submitted the following

## REPORT:

[To accompany bill H. R. 3719.]

mmittee on the Post-Office and Post-Roads have had under ation House bill No. 3719, and are of the opinion that the legisla- emplated by said bill would be unwise.

mmittee recommend that said bill lie upon the table.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 505.

# NAMING OF POST-OFFICES.

FEBRUARY 13, 1886.—Laid on the table and ordered to be printed.

Mr. T. B. WARD, from the Committee on the Post-Office and Post-Roads, submitted the following

## REPORT:

[To accompany bill H. R. 2453.]

The Committe on the Post-Office and Post-Roads have had under consideration House bill No. 2453, and are of the opinion that the legislation contemplated by said bill would be inexpedient.

The committee, therefore, report adversely upon said bill, and recommend that it lie upon the table.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 506.

# DELIVERY OF MAIL MATTER.

FEBRUARY 13, 1886.—Laid on the table and ordered to be printed.

Mr. T. B. WARD, from the Committee on the Post-Office and Post-Roads, submitted the following

## REPORT:

[To accompany bill H. R. 3051.]

The Committee on the Post-Office and Post-Roads have had under consideration House bill No. 3051, and are of the opinion that the legislation contemplated therein is wholly unnecessary.

The committee report adversely upon said bill, and recommend that it lie upon the table.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 507.

# SUBLETTING OF CONTRACTS FOR CARRYING THE MAILS.

FEBRUARY 13, 1886.—Laid on the table and ordered to be printed.

Mr. BARRY, from the Committee on the Post-Office and Post-Roads, submitted the following

## REPORT:

[To accompany bill H. R. 4860.]

The Committee on the Post-Office and Post-Roads, to whom was referred the bill (H. R. 4860) to regulate the subletting of contracts for carrying the United States mails, report adversely to the same, and recommend that it do lie on the table.

C

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 508.

# COMMISSION OF EXPERTS ON TEST OF METALS.

FEBRUARY 13, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. JACOB M. CAMPBELL, from the Committee on Manufactures, submitted the following

## REPORT:

[To accompany bill H. R. 5555.]

*The Committee on Manufactures, to whom was referred the bill (H. R. 2085) authorizing the President to appoint a commission of experts skilled in the investigation, production, and use of metallic substances and other structural materials, &c., submit the following report:*

This bill was introduced in the Forty-seventh and Forty-eighth Congresses and reported favorably upon by the committee, but the bill was not reached for action. The following is the report made upon the subject at that time, which your committee adopt as their own, and submit it for your consideration:

The object of this bill is the creation of a commission of experts to ascertain and make public the strength and other properties of materials used in structures upon a scale beyond that which can be carried out by private means, information rendered necessary by the requirements of the present and increasing developments of the future.

The work to be done is of the greatest importance. Its object is to secure information which will result in more economical construction, in increased safety for life, and in the more assured protection of much valuable governmental and private property now dangerously liable to accident and destruction.

In proportioning the parts of structures to resist the strains to which they may be exposed, constructors have heretofore necessarily been guided to a great extent by rules deduced from European experiments, comparatively few in number, differing in their character, in the methods of manufacture of the materials, and of their use from those of our own country, and in nearly every case made with specimens of small dimensions cut from the piece to be tested. The slight dependence placed on these rules is shown by the practice of our engineers, who have habitually proportioned their works to carry from five to ten times the strain which could come upon them, this large allowance being made to cover the existing uncertainty as to the actual strength of the materials in the forms and dimensions of practice. Recent experiments tend to show that the relative strength of materials in large pieces is less than that of the small specimens heretofore used for tests. This renders it probable that many structures in constant use do not possess the surplus of strength they were supposed to have, and also that many of the accidents involving loss of life and destruction of property are to be attributed to the lack of accurate knowledge of the materials employed.

These and many other considerations prove the necessity of testing materials of the full size of the members to be used in actual structures. Such tests, properly conducted, will enable the constructor to give his works ample and safe dimensions without that excess of weight which is sometimes in itself a source of danger and a limit to the capabilities of construction.

Everything which tends to the greater security of structures, of bridges, roofs, walls, floors, &c., is of direct interest to the general public, and is a fact so plain as to need no discussion.

The proposed commission would promote largely the interests of manufacturers by indicating to them the value of different methods of obtaining strength, and, of still greater moment, securing uniformity in their productions.

Its work would affect the interests of the public by the economies it will promote. Bridges, warehouses, and other structures may be built, not only of safer proportions, but at diminished cost. During the year just passed some 80,000 tons of iron and steel were used in bridges—one-third of this being in forms in which the materials are proportioned solely upon theoretical considerations—not verified by experiments upon the actual scale of practice.

But the largest single user of materials of construction is the General Government. A hundred new public buildings will probably be erected during the present year, in the construction of all of which iron and steel will largely enter. The consumption of these materials in them will probably reach 25,000 or 30,000 tons. A more thorough knowledge of the characteristics of the materials, and the methods for securing uniformity of quality, might easily effect a saving of 10 per cent. upon this quantity—say, $250,000 in the single year.

The science and practice of metallurgy are making rapid progress. New products are constantly brought forward, some of great value, and it is important to all industrial interests that their merits should be established at the earliest possible moment. There is, indeed, hardly a branch of industry which will not be benefited by a more thorough knowledge of materials, whether it be the armor, the frames, and the plates of our new Navy; the roof of a public building; the floor of an assembly room; the long-span bridge, or the iron columns of the store fronts that line our streets.

Among the many reasons why this commission should be appointed and maintained by the General Government are, that the expense of making such investigations is too great to be borne by any but the most wealthy manufacturers. If made by such, or by private parties, they would remain unpublished lest rivals should reap results; the large body of constructors who represent the interests of the general public would be deprived of any benefit from them. On the other hand, tests by manufacturers upon their own productions would never command that confidence which would be indispensable to their effective use.

Constructors, manufacturers, and users of all structural materials are deeply interested in the investigations to be made by a body of men, foremost in their profession, familiar with the processes of manufacture, with chemical analysis, and with the varied uses to which materials are applied, each one skilled in some special department of construction. Such a commission will command alike their confidence and that of the general public.

A testing-machine, said to be the best and most perfect ever built, is now the property of the Government, and is located in the Watertown Arsenal, New York. It has a capacity of 800,000 pounds, and is the only one in existence capable of testing and determining results on bars of the size which it is desirable to use in structures of such magnitude that it is important to use steel in them.

Mr. Ashbel Welch, of Lambertville, N. J., president of the American Society of Civil Engineers, at a recent meeting of the American Institute of Mining Engineers, said:

"I have been struck by the emphasis with which the confession is made that so little is known of the strength of the larger-sized members constantly used in building structures of the magnitude which the present requirements of the country demand. * * * This is no disgrace, for with the means heretofore in use it was impossible to get the information required. A good preliminary step towards the acquisition of knowledge is to feel and frankly confess our ignorance."

Charles MacDonald, civil engineer, president of the Delaware Bridge Company, in discussing the same subject, said:

"It is safe to say that the recent fall of one of the most important bridges in the country would not have occurred if, at the time of its construction, the engineer could have tested full-sized sections of his material on such a machine as the Government now owns at Watertown Arsenal.

* * * * * * *

"It would be possible to point out many other directions in which experimental knowledge is sadly needed, but if nothing else were done than to determine practically the laws which govern the strength of compression and tension members of bridges, and the flexure of rolled beams, a very great advance would be made in our modes of construction, and a great safety would be assured to the hundreds of thousands of people who are constantly trusting their lives upon such structures."

E. D. Leavitt, jr., mechanical engineer, of Cambridgeport, Mass., probably the greatest living authority on this subject, in discussing this question, said:

* * * * * * *

"Our knowledge regarding the strength and behavior of materials under strain is yet very limited. The best and most experienced constructors admit and lament this.

ıese days of high speed by railways and steamships, of long-span bridges and deep s, engineers must know what materials will safely endure; life depends upon it, ɔvery means available for increasing and disseminating information on such a ıct, which is of such vital consequence to all, should be provided.

freely acknowledge that I have learned more about structural materials through ests made at Watertown during the last two years than in twenty-five years' ious experience."

. O. Chanute, civil engineer, said:

* * * * * * *

'here is great uncertainty as to the actual strength of the bridges which we are erecting. Their strength is of course limited by that of the weakest part, but e we endeavor to make every part equally strong, as well as we know how, yet re almost entirely ignorant as to what is actually the weakest part of a bridge of magnitude, and of just where it would give way first, if loaded to rupture.

* * * * * * *

The General Government is the proper party to institute and carry out the needed riments, not so much because, as has been claimed, the materials to be tested are rican iron, steel, and other metals, but because there is need of general informa- which no single other party is likely to obtain and make public. The Govern- has the machine, it has abundant resources, and the manufacturers and engi- s of the country, with universal good will, stand ready to tender their aid and nical knowledge."

fred P. Boller, civil engineer, of New York, bridge and elevated railway con- tor, said:

* * * * * * *

What so intimately affects the people in every household is worthy of the pro- dest sympathy of the legislative powers, and the members of any Congress who p this subject as its magnitude and importance demand will live to see, not only eat work performed in the interests of science and manufactures, but also a web rotection thrown around every hearthstone in the land by removing, to a great nt, the ignorance and empiricism to which too many broken bridges, fallen build- , and imperfect machines testify."

ıe committee are also in receipt of numerous communications from civil, mining, mechanical engineers, and others, from various sections of the country, expressing rs similar to those quoted, and urging early and favorable action upon this ques-

. *

Your committee, appreciating the magnitude and importance attached this measure, report back a substitute for the bill, and recommend passage.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 509.

# PUBLIC BUILDING AT GREENVILLE, S. C.

FEBRUARY 13, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. DIBBLE, from the Committee on Public Buildings and Grounds, submitted the following

## REPORT:

[To accompany bill S. 549.]

*The Committee on Public Buildings and Grounds, to which was referred the bill (S. 549) for a public building at Greenville, S. C., having had the same under consideration, begs leave to report as follows:*

That similar bills were introduced in the Forty-sixth, Forty-seventh, and Forty-eighth Congresses, and in each instance were reported favorably; in the Forty-sixth Congress the bill was reported favorably by the Committee of the Whole House, and had passed the Senate, and in each Congress failed to become a law only from the crowded state of the calendars.

The grounds in favor of this bill are briefly as follows:

The city of Greenville is the third city in population and importance in the State of South Carolina, and is rapidly increasing in both particulars, an official census, recently taken, showing an increase of population when compared with the census of 1880 of over 25 per cent. It is the largest city in the western district of South Carolina, and is in the center of said district and in easy railroad communication with every section of it, by lines converging to and crossing each other at that point.

The United States court, exercising district court and circuit court powers, is held there regularly, and at no other point in the western district, embracing one-half of the State. So large is the amount of business there transacted that its dispatch has required, during the last few years, an extra term of the court every year in addition to the regular terms designated by statute. The late United States district attorney, in a letter on the subject, says:

> A Government court-house is a necessity. More than two-thirds of the business of the United States in this State is done in the district court at that place (*i. e.*, at Greenville). The dockets contain from 400 to 700 cases for trial.

The United States courts are now held in the county court-house, where there are no accommodations at all suited for the United States.

The district judge upon this subject says:

> There is next to no accommodation for our officers—marshal and his deputies, clerk and his deputies—and no provision at all for the safe, methodical, and decent care of the process and papers of the court.

## PUBLIC BUILDING AT GREENVILLE, S. C.

The circuit judge (Judge Bond) says:

> It is a disgrace to the country to hold the court there in the way it is now done.

And

> I despair of making any of the court's proceedings effective or impressive while it held in a hired building not under its own control.

The present United States district attorney says:

> Should the South Carolina legislature change the time for holding the State courts r Greenville County so as to conflict with the time fixed by law for holding the dis- ct court of the United States the United States Government would have no place hold its courts.

There is equal necessity for suitable accommodations for the postal isiness. As far back as 1879, 326,570 packages of mail matter were ndled, and since that time the volume of mail matter has largely in- eased with the growth of the city. The post-office at present is kept in rented building, and rents are continually advancing, increasing the pense of a suitable rented building year after year. The present post- aster says: "It is inadequate to the increasing business."

In view of the foregoing facts your committee recommends that the m of $80,000 be fixed as the limit of cost of the site and building pro- ded for by the bill under consideration. In the judgment of the com- ittee the sum mentioned will enable the Secretary of the Treasury to ovide a building which will afford ample room for the present and ospective needs of the Government without a further appeal to Con- ess for an extension of the limit of cost.

Your committee therefore recommends that the bill do pass, with the llowing amendment:

Strike out the words in the said bill following the word "vaults" own to the word "provided," and insert the following:

"For the use and accommodation of the United States courts, post- fice, internal-revenue office, and for other Government uses; the site d building thereon, when completed upon plans and specifications to previously made and approved by the Secretary of the Treasury, all not exceed in cost the sum of $80,000; nor shall any site be pur- ased until estimates for the erection of a building which will furnish fficient accommodations for the transaction of the public business, and hich shall not exceed in cost the balance of the sum herein limited, ter the site shall have been purchased and paid for, shall have been proved by the Secretary of the Treasury; and no purchase of site no an for said building shall be approved by the Secretary of the Treasury volving an expenditure exceeding the said sum of $80,000 for site and ilding."

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 510.

# PUBLIC BUILDING, FORT SMITH, ARK.

FEBRUARY 13, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. DIBBLE, from the Committee on Public Buildings and Grounds, submitted the following

## REPORT:

[To accompany bill S. 610.]

The Committee on Public Buildings and Grounds, to which was referred the bill (S. 610) to provide for a building for the use of the Federal courts, post-office, and internal revenue, and other civil offices, and a United States jail in the city of Fort Smith, Ark., having considered the same, respectfully recommend the passage of the bill with the amendments below stated.

The committee, for their report, adopt the following from the report of the Committee on Public Buildings and Grounds in the Forty-eighth Congress:

That they have examined a mass of papers, memorials, letters, &c., from Government officials and private citizens, from which they find that Fort Smith is a growing town, situated at the junction of the Poteau and Arkansas Rivers, in the western part of the State of Arkansas, contiguous to the Indian Territory; that there is a large amount of business transacted in the district and circuit courts at that place; and that the accommodations for the transaction of the judicial and other business of the Government are wholly inadequate, in view of the importance of the business necessary to be transacted. The Federal courts are held in a building erected many years since by the Government as a fort, which was never suited for the purposes to which it is at present devoted, and is in a greatly dilapidated condition, by reason of long continued use. The prison for the confinement of prisoners charged with criminal offenses is located in the basement of the building, immediately under the rooms used for holding the courts, and is wholly unsuited for a place of confinement, besides the inconvenience which it necessarily gives to the occupants of the rooms above.

The committee submit as a part of their report the appended memorial, which sets out in detail the necessity for the construction of a public building at this place, and gives many strong and urgent reasons why the required appropriation should be made, and to which they respectfully invite the attention of the full committee.

### MEMORIAL TO THE CONGRESS OF THE UNITED STATES FOR A FEDERAL COURT AND POST-OFFICE BUILDING AND A UNITED STATES JAIL AT FORT SMITH, ARK.

*To the honorable Senate and House of Representatives of the Forty-eighth Congress of the United States of America:*

Your memorialists, citizens of the western judicial district of Arkansas, respectfully represent that the United States district court of the said district is now and has for the past twelve years been held in the city of Fort Smith, in the western portion of the State of Arkansas. The said district embraces within its jurisdiction the counties of Benton, Boone, Carroll, Logan, Crawford, Franklin, Howard, Johnson, Little River, Madison, Montgomery, Marion, Newton, Polk, Sevier, Sebastian, Scott, Washington, and Yell, in the State of Arkansas, and criminal jurisdiction over the Cherokee, Choctaw, Chickasaw, Creek, and Seminole Nations of the Indian Territory.

The said district court, by act of Congress, embraces four terms each year, commencing respectively on the first Mondays of February, May, August, and November.

The criminal docket and business of said court, by virtue of its jurisdiction over said Indian nations, embracing crimes from the lowest misdemeanors to capital felonies is so enormous and considerable that, in order to try all cases, said court is practically in session the entire year, holding its session frequently at night, and often lapping over with cases from one term into the next; and even then it is only by close economy of time that the business can be disposed of.

During the year commencing on the 1st day of November, 1882, and ending on the 1st day of November, 1883, the following number of cases were tried and disposed by said court, viz: Number of criminal cases pending November 1, 1882, 77; number commenced during the year ending November 1, 1883, 419; total number pending during the year, 496. Number tried and disposed of during the year, 425; remaining on docket November 1, 1883, 71. Number of civil cases on docket November 1, 1882, 86; number commenced during the year, 138; total number pending during the year, 229. Number disposed of during the year ending November 1, 1883, 92; remaining on the docket, 132. Of the number of criminals convicted there were 137 sentenced and transported to the House of Correction at Detroit, Mich., the costs of transportation alone being $5,706.60. From the 1st day of November, 1882, to November 1, 1883, there were confined in the jail, under charge of crime, over which said court had jurisdiction, 605 prisoners. Under the present system of management of the jail there is required a regular force of one jailor, two turnkeys, and seven guards, and at times one and two additional guards, at a total cost of about $600 per month. On the civil docket of said court there were cases to the number of 224 from the 1st day of November, 1882, to the 1st day of November, 1883, and the civil business of said court is rapidly increasing.

A thorough report and review of the business of said court has been compiled by Stephen Wheeler, esq., clerk of said court, a certified copy of which is here filed, marked Exhibit A, and made a part of this memorial. The said city of Fort Smith, where memorialists ask that said buildings be erected, is a growing and thriving city, showing a population of 3,100, by the census of 1880, and, at this date, having a population of not less than 8,000. Said city is centrally located in the territory over which said court has jurisdiction, lies upon the banks of the Arkansas River, 165 miles above Little Rock, and 75 miles below Fort Gibson. There are now two railroads running to said city, to wit, the Little Rock and Fort Smith Railway and the Saint Louis and San Francisco Railroad. The latter of said roads has already obtained an act of Congress granting the right of way through the Government reservation at Fort Smith, and memorialists are advised at an early date will continue said road through to some point in Texas, thus running entirely through said district. It will thus be seen that said city is easily accessible, is in a healthy locality, with a fine climate and good water supply.

Memorialists further represent that said district court is now being held in one of the old remaining barracks buildings, situated in the old fort of the now abandoned military reservation, erected for that purpose, and formerly used by the Government in which to quarter soldiers; said building is a low-roofed, Spanish-fashioned, story-and-a-half high house, and a more unfit place in which to hold a court could hardly be imagined. The jail in which the prisoners are kept consists of two large low-roofed cellar rooms, extending all the way under the entire building. In these two cells are confined the prisoners, indiscriminately, without regard to race, color, condition, or crime, except when females are imprisoned, when it becomes necessary to employ additional guards to guard them in some out-house or the garret story of the building. In the event an epidemic or contagious disease should break out in the jail, the results would be appalling and without remedy. As an inevitable consequence, a disagreeable odor and stench arises from said jail, which prevades the whole building. The court is held in a room over said jail, on the first floor, about 40 by 60 feet, supported in the center by four posts, and ventilated only at each end. In the other part of the first story, over the said jail, are the offices of the clerk and the marshal, subdivided by plank temporary partitions. The entire structure is, by reason of long use and age, in a state of decay, inconvenient and ill-suited in its appointments, and totally unfitted for the purposes for which it is used. Your memorialists, therefore, pray that your honorable body appropriate a sufficient sum of money out of the Treasury to erect a suitable Federal court building and jail at said city of Fort Smith.

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TREASURY DEPARTMENT,
OFFICE OF THE SUPERVISING ARCHITECT,
*January* 15, 1884.

DEAR SIR: Referring to the information received from you regarding the necessity for a building for the accommodation of the United States courts, post-office, and other Government officials at Fort Smith, Ark., and for the remodeling of the jail located within the wall of the military reservation at that place for the care and con

nement of United States prisoners, I have the honor to advise you that, in my judgment, the sums mentioned in bill H. R. 38, viz, for post-office, United States courts, internal revenue offices, &c., $250,000, and for remodeling the jail, $50,000, will be required.

Very respectfully,

M. E. BELL,
*Supervising Architect.*

Hon. JOHN H. ROGERS,
*House of Representatives.*

The Government owns block No. 514, as the same is described on the map of the reserve addition to the city of Fort Smith, Ark., which block was, by an act of Congress approved November 8, A. D. 1884, reserved, selected, and set apart for public building purposes. The Government also owns in addition thereto the grounds and building which it is proposed to remodel, construct, and convert into a jail for the confinement of the United States prisoners.

In support of this bill the committee refer the House to the annual report of the Attorney-General of the United States for the years 1883, 1884, and 1885, in which the early construction of this jail has been urged as a public necessity and as a matter of humanity.

There are also numerous memorials by grand juries for the western district of Arkansas urging the construction of suitable buildings for court purposes at Fort Smith, Ark.

Your committee recommend that the sum of $100,000 be fixed as the limit of cost of the court-house building, and that $25,000 be the limit of cost for the alteration of the present building, necessary for purposes of a jail; and to that end that the bill (S. 610) be amended as follows:

(1) Strike out the words "and twenty-five," between the words "hundred" and "thousand," in the first section of the bill.

(2) Strike out the word "fifty" and insert in lieu thereof the word "twenty-five," between the words "sum of" and "thousand," in section 2 of the bill.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 511.

# PUBLIC BUILDING AT DALLAS, TEX.

FEBRUARY 13, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. DIBBLE, from the Committee on Public Buildings and Grounds, submitted the following

## REPORT:

[To accompany bill H. R. 2410.]

*The Committee on Public Buildings and Grounds, to whom was referred the bill (H. R. 2410) for the addition of a third story to the public building at Dallas, Tex., having considered the same, submit the following report:*

The bill authorizing the erection of this building was enacted into law some four years ago, the amount of the appropriation being $75,000. The Supervising Architect designed a building within this limit, plain and without ornamentation, and began its erection some twelve or eighteen months ago. During the Forty-seventh Congress $25,000 was added to the original appropriation for the purpose of having the building of fire-proof construction. The walls are now finished up to or near the second story, and this bill is for the addition of a third story. The needs of the public service in Dallas imperatively demand this enlargement. The building is small, being 55 by 84 feet. The post-office will occupy the first floor, while the second floor is designed for the uses of the United States courts. The first floor is barely sufficient to meet the present demands of the postal service, while the second floor is wholly inadequate to the uses for which it is contemplated.

The dimensions of the court-room, as planned, are but 25 by 46 feet, and even the reduction of the court-room to these small and contracted proportions does not leave sufficient space for the necessary offices pertaining to the court, while no provision is made for the office of deputy collector of internal revenue.

Dallas is one of the most important cities in Texas, both in the number of its inhabitants and the extent of its commerce.

The territory within the municipality is quite limited, being only 1½ miles square. The population within the municipality is about 15,000. Immediately contiguous to these chartered limits, however, and in reality a part of Dallas for all practical business purposes, is a population estimated at 10,000.

Since the construction of the building was authorized, some four years ago, the gross revenues of the post-office have increased from $30,201.29 to about $42,000, the latter amount being the revenues for the fiscal year ending June 30, 1885, and are largely and rapidly increasing. The post-office has the free-delivery system, with ten carriers.

Dallas has five railroads, and is the point of intersection of the two

great trunk lines, one from the Atlantic to the Pacific Ocean and t other from the Great Lakes to the Gulf of Mexico.

United States courts are held at Dallas. The court was establish some six years ago; its business has assumed large proportions.

Without any reference to the future rapid growth of Dallas, wh will requi enlarged accommodations, the capacity of the building, designed, is wholly inadequate to the present pressing needs of the pu lic service. The addition of a third story is an urgent necessity.

The committee report back the bill and recommend its passage w the following amendment: In third line of first section strike out t words "Supervising Architect" and insert in lieu of them the wo "Secretary."

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GRESS, } HOUSE OF REPRESENTATIVES. { REPORT
sion. } { No. 512.

# PUBLIC BUILDING AT SPRINGFIELD, MASS.

13, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

KWELL, from the Committee on Public Buildings and Grounds, submitted the following

## REPORT:

[To accompany bill S. 263.]

*mittee on Public Buildings and Grounds, to whom was referred the 263) providing for the erection of a public building in the city of field, Mass., make the following report:*

ty of Springfield is the recognized center of the commercial and siness of Western Massachusetts. It is the point where centers t railway travel between Boston and Albany for the East and nd between Montreal and New York City for the North and nd hence is a great central point for the distribution of mail. 2 miles from New York and 100 miles from Boston, and the stance from Albany. One hundred trains arrive and depart nd one hundred and twenty-eight mails are forwarded and daily. Three large railroad corporations are represented at eld, viz: The Boston and Albany Railroad, the Connecticut ailroad Company, and the Hartford and New Haven Railroad, two having their headquarters in the city. Owing in no slight to the great facilities these large corporations furnish for trans- n to and from all points in the country, Springfield has become flourishing manufacturing city and a recognized commercial while its mercantile business is constantly increasing. Its man- ng interests are also increasing, and a large portion of its capital ed in the manufacture of paper. Its diversified manufacturing call for a great variety of skilled workmen, which probably is on why the working classes of the city are of such high stand- the city a letter writing community. The statistics will show ingfield will average as many, if not more, letters per capita other city. The central location of the city and its great rail- lities make it a well-known distributing point, and it is utilized ercial men and the surrounding towns.

pulation is 40,000, while the number receiving mail is much eing increased from those dwelling in surrounding towns doing there, and from people temporarily there.

STATISTICS.

Money-order business:

| | |
|---|---|
| Receipts | $1 |
| Payments | 1 |

| | |
|---|---|
| Receipts for the year 1885, from stamps, postal cards, stamped envelopes, &c | |
| Expenses | |
| Net income | |

Mail matter:

| | |
|---|---|
| Registered letters received and dispatched in transit | |
| Letters delivered by carriers | |
| Postal cards delivered by carriers | |
| Drop-letters delivered by carriers | |
| Drop-postal cards delivered by carriers | |
| Newspapers delivered by carriers | |
| Registered letters delivered by carriers | |
| Letters, postal cards, and newspapers collected from street letter-boxes | |
| Delivered through lock-boxes and window delivery | |
| Letters, postal cards, and second, third, and fourth class matter mailed at Springfield, received in transit, and dispatched | 1 |
| Total pieces handled | 1 |

The rent paid for the post-office, with very poor accommodati annum, is $2,300. The rooms now rented are inadequate for t ent business of the office; are altogether too small, and very da pelling the use of gas during the day, at an extra expense of $200 per year.

The number of persons employed in the office is twenty-seve number of offices occupying Government buildings in the Unite is seventy-one, and of this number Springfield is excelled in g ceipts annually by only twenty-nine and in net receipts by seven.

Outside of the largest cities in the Union the Springfield po ranks seventh in gross receipts and fifth in net receipts. It is iting office for the two hundred and sixty-one fourth-class offices ern Massachusetts and Windham County, Vermont, amou $23,52 .09.

It is also a registering and pay office for thirty-six railwa clerks. A favorable report was made in the Forty-eighth Con

In view of the foregoing facts your committee respectfully rec the passage of the bill, having amended the same by insertin twelfth line, after the word "dollars," the following:

"Nor shall any site be purchased until estimates for the er abuilding, which will furnish sufficient accommodations for th action of the public business and which shall not exceed in cost ance of the sum herein limited after the site shall have been pu and paid for, shall have been approved by the Secretary of th ury, and no purchase of site nor plan for said building shall be a by the Secretary of the Treasury involving an expenditure e the said sum of $150,000 for site and building."

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 513.

# PUBLIC BUILDING AT ANNAPOLIS, MD.

FEBRUARY 13, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. COLE, from the Committee on Public Buildings and Grounds, submitted the following

## REPORT:

[To accompany bill S. 201.]

*The Committee on Public Buildings and Grounds, to whom was referred the bill (S. 201) appropriating $100,000 for a public building at Annapolis, have carefully examined the same, and report as follows:*

It is needed for the following reasons:

(1) There is no building whatever in Annapolis, public or private, that could be obtained and would suit for a post-office.

(2) The proposed building, however, is designed for several purposes: for post-office, for Signal Corps officers, a station having been provided by the Department for this place, and lastly for offices of collector of the port, inspector, &c.

(3) The present accommodations are so exposed and so regarded by the public (though as good as any obtainable and perhaps the best now in Annapolis) as essentially unsafe and offering a constant temptation to the burglar's cupidity. The late postmaster, Grafton Munroe, was robbed of nearly $7,000.

(4) This is a State capital, and as such should certainly have a public building. That this is, perhaps, the only State capital which has not been already provided for in this respect by the General Government. There seems to be no reason why Annapolis should be excepted.

(5) A strong reason for a public building in Annapolis is occasioned by the fact that this is the site of the United States Naval Academy. With its array of executive officers and long lists of professors and instructors, with their families and servants; with its scores of master mechanics and employés in its various mechanical, engineering, gas, and steam departments; with its departments of marines; with its four or five hundred students and cadets; with its steamers and other shipping, such as monitors and men-of-war, requiring immense drafts of seamen and officials, servants and employés, it comprises a small city within itself. And this imposes on the city and the General Government in connection with it a series of considerations that do not attach to any other city in the country. Between the Naval Academy, the naval arm, so to say, of the General Government, and the Government itself at Washington, there is required intimate and certain relation.

(6) In the money-order department at this office a banking business is done (receipts and expenditures) of between $75,000 and $100,000 per year.

(7) The cash postal receipts are several thousand dollars over penditures; for the current year about $7,000 in excess.

(8) The difficulty of handling the mails owing to the contracte of the office.

(9) As a port of entry, likely at any time to become a very im one, Annapolis should be provided with suitable offices.

Your committee would therefore recommend the passage of t

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CONGRESS, Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 514.

# PROTECTING MECHANICS AND LABORERS.

RUARY 13, 1886.—Referred to the House Calendar and ordered to be printed.

J. J. O'NEILL, from the Committee on Labor, submitted the following

## REPORT:

[To accompany bill H. R. 5310.]

e Committee on Labor, to whom was referred the bill (H. R. 5310) otect mechanics, laborers, and servants in their wages, having coned the same, herewith return it to the House with the recommendathat it do pass.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 515.

# EMPLOYÉS IN THE BUREAU OF PRINTING AND ENGRAVING.

FEBRUARY 13, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. J. J. O'NEILL, from the Committee on Labor, submitted the following

## REPORT:

[To accompany bill H. R. 4857.]

The Committee on Labor, to whom was referred the bill (H. R. 4857) granting relief to the employés of the Bureau of Printing and Engraving, United States Treasury, herewith, report the same, with the recommendation that it do pass.

NGRESS, } HOUSE OF REPRESENTATIVES. { REPOR
ssion. } { No. 516.

# JAMES J. JOHNSTON.

13, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

:TIN, from the Committee on Patents, submitted the following

## REPORT:

[To accompany bill H. R. 1773.]

*mittee on Patents, to whom was referred House bill No. 1773, beg leave to submit the following report:*

hnston is the inventor of a process and apparatus for combining ted steam and air with the vapors evolved from hydrocarbon the production of illuminating gas and the generation of heat d in the arts and for general purposes, for which a patent was him in 1865, which was subsequently surrendered and a reissue , which was again, on account of imperfections, surrendered, her reissue was granted on the 13th of August, 1878, in two s, A and B.

the date of his discovery, Mr. Johnston states that he has been gable in testing and perfecting his invention; that he has been successful in accomplishing all that he claims; that he has ex- housands of dollars in money without having received any re- d that he has demonstrated the advantages and economy to the f his invention.

ctension of this patent does not involve the manufacture of an be put up for sale, and upon which the purchaser is obliged to yalty, but it is designed to produce light and heat for general mon use, at a greatly decreased cost to the consumer.

ears, also, that in his efforts to test and perfect his invention, nston has exhausted his means, brought embarrassment upon and this without any lack of diligence on his part, but in the er of discouragements such as are common to men who have iscoveries that are valuable to the public. The committee, e, in view of the fact that if time is given the inventor can fur- nonstrate the practicability of economizing the cost of light t, and that he may therefore reasonably ask for an extension of nt to enable him to recover his losses, and to enjoy the credit those whose efforts have resulted in a common benefit, favor tion on the bill as amended, and recommend its passage.

d the bill (H. R. 1773) as follows: Strike out all that follows word "extended" in the twelfth line of the bill, and add the g words, namely: "And the Commissioner of Patents is hereby ed and empowered to grant an extension of the patents herein d for the period herein named."

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 517.

# HENRIETTA H. COLE.

FEBRUARY 13, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. FISHER, from the Committee on Patents, submitted the following

## REPORT:

[To accompany bill H. R. 200.]

*The Committee on Patents, to whom was referred the bill (H. R. 200) for the relief of Mrs. Henrietta H. Cole, have had the same under consideration, and beg leave to report:*

That a bill (H. R. 6081) was pending before the Forty-seventh Congress, at the first session thereof, and before the Forty-eighth Congress (H. R. 4206) at the second session thereof, and after consideration the Committee on Patents made favorable reports to the House, and the committee adopt said reports. The reports are as follows:

Mrs. Cole is the inventor of an improvement in fluting machines, which was patented in 1866, and upon which a patent was granted for an improvement April 25, 1871. The committee are of opinion that the invention is valuable and useful.

Owing to the financial condition of Mrs. Cole she has not realized much profit from her machine. She made a contract with C. H. Stevens, secretary of Blake & Johnson, to manufacture two hundred and fifty of said machines, at $13 per machine. After paying for the manufacture and sale of said machines she realized only a small amount, say $2.50 a machine. This transaction covered a period of two years.

In 1868 she sold her interest in the patent to one William Bennett, who agreed to pay her the sum of $11,000 and a royalty of $3 on each machine sold during the life of the patent. Bennett executed his obligations to Mrs. Cole for the said patent, which were never paid.

After a suit against Bennett, Mrs. Cole had to purchase the patent back from Bennett, paying him the sum of $300 therefor. This resulted in heavy losses to the petitioner in costs, attorney fees, and other expenses.

Litigation growing out of the sale of the patent, as above, continued until the patent for the improvement was issued in April, 1871. George Harris then manufactured five hundred machines for her, which she sold and realized $1 profit on each. The Bickford Knitting Machine Company made five hundred for her, on which she received, after cost of making and selling, $125. She also received $500 royalty from Messrs. Towle & Unger. Messrs. Clark, Wilson & Co., had charge of the sale of the machines, who claimed a loss of $3,000 on the ground that too much was paid for the manufacture of them, for which they brought suit, running the petitioner to cost and expenses.

Petitioner testifies on oath that after deducting all expenses, costs, &c., that she has received very little, if anything, for her invention in the way of profits. It is also true that Mrs. Cole has been annoyed by infringements upon her patent, which have cost her a great deal of money as well as loss of time. She has one suit now pending in New York for infringing her patent.

The committee therefore recommend the passage of the accompanying bill (H. R. 200).

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 518.

# ADVANCES MADE TO UNITED STATES BY MARYLAND AND VIRGINIA.

FEBRUARY 13, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. SHAW, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill H. R. 1065.]

*The Committee on Claims, to whom was referred House bill* 1065, *submit the following report:*

Bills similar in all respects to that referred to this committee have been before Congress since the Thirty-first Congress. The records of Congress show the following reports recommending the passage of bills for the payment of these claims:

September 16, 1850, Thirty-first Congress, first session, H. R. 494, by McDaniel, from Committee on Claims.

May 29, 1850, same Congress and session, from the Senate Committee on Claims, by Senator Underwood.

January 6, 1852, Thirty-second Congress, first session, H. R. 2, by Mr. Rantoul, from Committee on Claims.

January 30, 1852, Thirty-second Congress, first session, S. R. 59, by Mr. Brodhead.

———, 1853, Thirty-second Congress, first session, S. R. 278, by Mr. Kerr, from Committee on the Judiciary.

May 20, 1884, Forty-eighth Congress, first session, H. R. 1563, by Mr. Mayberry, from Committee on the Judiciary.

This bill was before the Committee on the Judiciary of the House for the Forty-eighth Congress; was then fully considered and favorably reported and placed on the Calendar of the Committee of the Whole House. Your committee have re-examined all the reports, documents, and state papers, as well as the contemporaneous history relating hereto, and again recommend the passage of the bill, and adopt the report of the Committee on the Judiciary of the Forty-eighth Congress, with some additions thereto.

During the Revolution the Congress assembled in places which were rendered available by the varying circumstances of the war then being waged. Philadelphia, Lancaster, and York, in Pennsylvania; Princeton and Trenton, in New Jersey; Annapolis, in Maryland, and New York City were severally honored by the meetings of this assemblage. Before the treaty of peace Philadelphia became and continued the seat of government until June, 1783. The mutiny of the Pennsylvania line, on account of arrearages of pay, compelled an adjournment of the sitting of Congress to Princeton, N. J. The causes which led to this sudden and unexpected adjournment of the Federal Congress from its estab-

lished seat made the subject of a Federal capital a fruitful source of discussion, continuing through the period intervening from 1783 to 1790. On the 7th of October, 1783, Mr. Gerry, then a member of the House of Representatives, gave definite shape to the discussion by proposing that the Federal buildings be provided on or near the banks of the Delaware or Potomac Rivers, with a vested right in the soil and exclusive jurisdiction for all governmental purposes in the Government of the United States. This proposition of Mr. Gerry received the approval of Congress at that time, but no definite steps were taken to further conclude the matter. On April 26, 1784, the action of Congress approving the proposition of Mr. Gerry was repealed without the assignment of any special reasons therefor.

On the 30th of October, 1784, three commissioners were appointed by Congress to select and lay out a Federal district for the purposes of the Government, near the falls and on either side of the Delaware River. The commissioners were authorized and empowered to purchase the land and to erect the necessary public buildings thereon. On account of the failure of Congress to make an appropriation, the purposes contemplated in the act creating the Board of Commissioners were not carried into effect. On the 13th of February, 1785, an effort was made to substitute the Potomac for the Delaware River as a proposed site, which effort finally failed.

On the 10th day of May, 1787, Mr. Lee, of Virginia, introduced a resolution providing for the erection of public buildings in Georgetown, on the Potomac. This resolution, like its predecessors, failed of adoption. The Constitution, adopted in 1787, provided for a Federal district not exceeding 10 miles square for the permanent seat of Government. Action was not taken to give effect to this provision of the Constitution until the 23d of December, 1788, when Maryland passed an act to cede to the United States a district of 10 miles square, the act leaving with Congress to decide where the exact site should be selected.

On the 3d of December, 1789, the State of Virginia passed an act for the cession of a district 10 miles square, and suggesting the selection of a site on the Potomac River, where "the States of Pennsylvania, Maryland, and Virginia may participate in such location." (Davis's Laws, District of Columbia, page 60).

No action was taken by Congress upon either of these acts until September 5, 1789, when a resolution passed the House of Representatives establishing the seat of Government on the Susquehanna River. In the debates which ensued on that resolution the word "Susquehanna" was struck out and that of "Germantown" inserted. This resolution, which then took the form of a bill, passed the House, but failed to pass the Senate.

On the 31st of May, 1790, a bill was introduced in the Senate "to determine the permanent seat of Congress and the Government of the United States." Baltimore, Georgetown, Patapsco, and Havre de Grace were mentioned as desirable places for the capital of the country. But finally the act establishing "the temporary and permanent seat of Government for the United States" was passed July 16, 1790, fixing the banks of the Potomac River as the most desirable site. In compliance with this act, President Washington visited Williamsport, Washington County, Maryland, but not liking the situation selected the present location, and upon his report the act of March 3, 1791, was passed, amending that of July 16, 1790, and authorized the President to include Hunting Creek and the town of Alexandria in the Federal district. Thus the present District of Columbia was located.

It is shown by an act of the general assembly of Virginia, passed December 3, 1789 (13 Henning, page 33), that the establishment of a "situation for the seat of the General Government, central and convenient to the citizens of the United States at large, having due regard to population, extent of territory, and a free navigation to the Atlantic Ocean, through the Chesapeake Bay, as well as ready communication with our fellow citizens on the western frontier," engaged the attention of the said general assembly, and on the 10th of December that general assembly passed the following:

*Resolved by the general assembly of Virginia*, That a copy of the foregoing act of the 3d of December, 1789, be transmitted to the general assembly of Maryland without delay, and that it be proposed to the said assembly to unite with this legislature in an application to Congress, that in case Congress shall deem it expedient to establish the permanent seat of Government of the United States on the banks of the Potomac, so as to include the cession of either State, or a part of the cession of both States, this assembly will pass an act for advancing a sum of money, not exceeding $120,000, to the use of the General Government, to be applied in such manner as Congress shall direct towards erecting public buildings, the said assembly of Maryland on their part advancing a sum not less than two-fifths of the sum advanced by this State for the like purposes. (See Journal of the House of Delegates, p. 115.)

The foregoing resolution was prepared and introduced into the general assembly of Virginia by Hon. John Marshall, then a member thereof, and afterwards Chief Justice of the Supreme Court of the United States.

At the November session, 1790, the general assembly of Maryland passed the following resolution:

Whereas by a resolution of the general assembly of Virginia, passed on the 10th day of December, 1789, it was proposed to the general assembly of Maryland that the general assembly of Virginia will pass an act for advancing a sum of money, not less than $120,000, to the use of the General Government, and to be applied in such manner as Congress shall direct, toward erecting public buildings, the assembly of Maryland on their part advancing a sum not less than three-fifths of the sum advanced by the said general assembly of Virginia; which resolution came so late to the last general assembly of Maryland that it could not be acted upon, and was, therefore, referred to this present session; and

Whereas this general assembly doth highly approve of the object of said resolution and is desirous of doing everything required on the part of Maryland for carrying the same into effect, on a second reading of said resolution,

*Resolved*, That this house doth accede to the proposition contained in said resolution of the assembly of Virginia, and will advance to the President of the United States, for the purposes mentioned in said resolution, the sum of $72,000, payable to his order in three equal yearly payments.

On the 24th of December, 1790, the general assembly of Virginia passed the following—

ACT concerning an advance of money to the Government of the United States for public buildings.

Whereas the general assembly of Maryland have acceded to a proposition of the general assembly of this Commonwealth, contained in their resolution of the 10th day of December, 1789, concerning an advance of money to the General Government to be applied towards erecting public buildings at the permanent seat of the Government of the United States, should the Congress deem it expedient to fix it on the bank of the Potomac; and

Whereas Congress has passed an act for establishing the said seat of Government on the Potomac;

*Be it enacted by the general assembly*, That $120,000 shall be advanced by this Commonwealth to the General Government, payable in three equal yearly payments, and to be applied towards erecting public buildings at the permanent seat of the Government of the United States on the bank of the Potomac, and the auditor of public accounts is hereby directed to issue his warrants on the treasurer to the amount of $120,000, payable, in the manner hereinbefore directed, to the order of the President of the United States. (See 13 Henning, p. 125.)

The records of the treasury department of Virginia show, by certified copies, that the first payment of this advance to the United States was

made April 15, 1791, and the last on January 8, 1795, and making, on the whole, the sum of $120,000. And by the eleventh section of the act of Maryland, passed December 19, 1791, it was—

*Resolved*, That the treasurer of the Western Shore be empowered and required to pay the $72,000 agreed to be advanced to the President by resolution of the last session of assembly, in sums as the same may come to his hands as the appointed funds, without waiting for the day appointed for the payment thereof. (See Davis's Laws District of Columbia, p. 70.)

At the same time, to secure the prompt payment of the sum advanced, the treasurer of the Western Shore was authorized to sell the "reserved lands to the westward of Fort Cumberland," and also "the lands lying in Dorchester County, and now in the possession of the tribe of Choptank Indians, to sell and convey the right of this State to 100 acres of land at Fort Frederick, in Washington County." (See 2d vol. Scharf's History of Maryland, p. 566.)

In the act of neither State is allusion made to the site of the seat of Government being a necessary condition of the advance of money, except as may be inferred from the use of the words, "in case Congress shall deem it expedient to establish," &c., and these would have included and applied to the proposed location, which embraced Pennsylvania as well as Maryland and Virginia.

It is an established fact of history that very deep feeling was engendered in the discussion leading to the location of the seat of Government. The question became largely sectional, and at one time threatened to lead to a rupture of the Union. To ward off such deplorable consequences a location was sought at a point which would be considered central to territory and population, accessible to navigation, and convenient to the western frontier.

No contemporaneous authority has been produced or can be found which intimates that the Congress was influenced by the advances of Virginia and Maryland in locating the permanent seat of Government on the Potomac, nor can any line of history be shown that "in the then impoverished condition of the country a pecuniary argument of this sort" had any "influence on the question of location" of the capital.

Chief Justice Marshall, writing the life of General Washington (vol. 5, chapter iv., page 259), says:

At length a compact respecting the temporary and permanent seat of government was entered into between the friends of Philadelphia and the Potomac, whereby it was stipulated that Congress should adjourn to and hold their session in Philadelphia for ten years, during which time the buildings for the accommodation of the Government should be erected at some place to be selected on the Potomac, to which the Government should remove at the expiration of the term.

This compact having united the representatives of Pennsylvania and Delaware with the friends of the Potomac in favor of both the temporary and permanent residence which had been agreed on between them, a majority was produced in favor of the two situations, and a bill was brought into the Senate in conformity with the previous arrangement and passed both Houses by small majorities. This act was immediately followed by an amendment to the bill then depending before the Senate for funding the debt of the nation. * * * When the question was taken in the House two members representing districts on the Potomac, who in all previous stages of the business had voted against the assumption, declared themselves in its favor, and thus the majority was changed.

Not one word is said about "a pecuniary argument." Chief Justice Marshall's authority is selected because of all the public men of those times he best understood the motives underlying the action of Virginia in the matter of these advances. He had been a member of the Virginia house of delegates from 1788 to 1793, when these advances were proposed. He knew that the title of the act making the advance had

ended on final passage by changing the word "grant" to "ad-
and his professional eminence at that early day precludes the
ion that he would in a public statute use the word "advance"
y a gift or donation.
cation of the Federal capital at its present site was the "sugar
hich Mr. Jefferson said was given to the South for their adop-
ie "assumption bill," which was a "bitter pill" to those States,
it was necessary that some one consistent measure should be
to sweeten it a little to them. (Jefferson's Works, vol. iv, p.

esent location of the Federal capital was a compromise settled
her considerations than would be involved in any advance of
hich Virginia and Maryland could have offered.
fourth section of the act of July 16, 1790, authority was given
resident to accept "grants of money," to be used in defraying
enses of purchasing the site and erecting public buildings
And it is contended that to this acceptance of grants his au-
as clearly limited. It is further contended that the authorities
nia and Maryland were presumed to know and understand the
s of this law; and it is further insisted that, despite the use of
"advance," the moneys paid over by these States to the Gov-
of the United States were paid in consideration of the location
at of Government at this point, assuming that from the pres-
ion benefits would accrue to the neighboring States sufficient
tute a valuable consideration for their offerings.
the first objection, that the President was authorized to accept
f money only, we may appeal with confidence to the words of
t Washington in explanation of his understanding of the au-
onferred upon him and of the action of the States in the prem-
a letter addressed to the Commissioners of the Federal Dis-
itten from Philadelphia under date of August 29, 1793, Presi-
shington asks:

manner would it be proper to state the account with the States of Virginia
land, they having advanced money which has not been all expended on
s for which it was appropriated? (Letter on file in the State Department
in Rep. H. R. 494, Thirty-first Congress, first session; and in Report 5,
ond Congress, first session.)

this clause there is a clear inference that President Washington
this money as an advance, rendering necessary an account
e kept with those States.
not be seriously contended that the receiver of another's money
ermitted to assume the character of a beneficiary, when, by the
terms under which he has been made the receiver, a contrary
is expressed.
it is contended that it was the duty of the States to know the
y conferred upon the President to accept grants only, it may be
d with like force that it was the duty of the Government and
s to take notice of the nature and provisions of the grant as
d in the public acts of the States, and in which they have care-
rded their rights in the premises.
, Congress having failed to carry into effect the prior resolu-
tablishing the seat of Government, solely on account of its
and consequent inability to make the necessary appropriations
it may be fairly urged on behalf of the claimants that the
dvanced to the use of the Government was intended to avoid
ion of previous failures. In confirmation of this intention to

advance or lend, and not to grant their moneys, the historical fact is urged on behalf of the State of Virginia, that an offer was made by the general assembly of Virginia on the 28th of May, 1783, in the following words:

> That if the honorable Congress should esteem the city of Williamsburg a fit place for their session, the assembly will *present* them, on their removal thereto, and during their continuance therein, with the palace, the capitol, and all public buildings, and 300 acres of land adjoining the said city, together with a sum of money not exceeding 100,000 of this State's currency.

To this resolution is attached the following proviso:

> *Provided always*, That should Congress thereafter remove from the city of Williamsburg, or from the land mentioned, that in such case the land so ceded, with the buildings, shall revert to the Commonwealth.

It seems that this clearly demonstrates that when Virginia intended a *present*, she so expressed herself, and that when her intention was only to advance money to the use of the Government, she was equally guarded and explicit in her language. The journals of the house of delegates clearly show that the use of the word "advance" was with peculiar deliberation, for one of the last acts in the final adoption of the act, was to amend the title by substituting the word "advance" for the word "grant," thereby causing an agreement between the title and the body of the act. The act of the State of Maryland follows strictly that of Virginia.

It is unnecessary to enlarge upon the use of the word "advance," as contained in these several acts and resolutions; it has but one interpretation, which is that of a *right of reimbursement*. To interpret this word as used in the resolutions of Maryland and Virginia as originating a gift is forced and extraordinary. It is clearly used as implying and anticipating an accounting between the parties, and familiar instances of its use in this relation in commercial transactions will readily occur to the mind. It may tend to throw light upon the intention of the States in the premises to refer to the system of raising revenue prior to the adoption of the Constitution, which was by requisition upon the several States; and, although that system had been superseded by the mode now in use, yet it was at a period so very recent after the adoption of the present mode that habits and ideas growing out of the former system would still have their force and effect. How natural was it, then, that in making a loan to the General Government the States of Virginia and Maryland should make use of terms to which they had become familiar under the Government, which had been so recently changed.

The advance of $192,000 by Virginia and Maryland enabled President Washington to begin the actual construction of the public buildings, which gave a value to lands theretofore valueless. The building of the capital converted a wilderness into city lots, the proceeds of the subsequent sales of which enabled the commissioners to continue the work on the public buildings until 1798, when the first appropriation from the Federal Treasury was available.

In a letter to Thomas Jefferson, Secretary of State, dated March 31, 1791, General Washington says:

> The terms entered into by me on the part of the United States with the landholders of Georgetown and Carrollsburg are, that all the land from Rock Creek along the river to the Eastern Branch, and so upwards to or above the ferry, including a breadth of about 1½ miles, the whole containing from 3,000 to 5,000 acres, is ceded to the public on condition that when the whole shall be surveyed and laid off as a city (which Major L'Enfant is now directed to do), the present proprietors shall retain every other lot; and for such part of the land as may be taken for public use for squares, walks

y shall be allowed at the rate of £25 ($66.67) per acre, the public having the reserve such parts of the wood on the land as may be thought necessary to rved for ornament; the landholders to have the use and profits of all the ntil the city is laid off into lots, and sale is made of these lots, which by eement become public property. Nothing is allowed for the ground which ied as streets and alleys. (See Sparks, x, p. 147.)

Jefferson, replying under date of April 10, says:

cquisition of ground is really noble, considering that only £25 an acre is to for any ground taken for the public, and the streets not to be considered, rill in fact reduce it to about £19 per acre. (Varnum, p. 27.)

ie report of Thomas Munroe, superintendent of public buildings, February 27, 1816, and embracing the receipts and expenditures tion to the public buildings from 1791 to 1816, the moneys ad- l by Virginia and Maryland are carried into the general accounts ipts, with appropriations from the Federal Treasury and with oceeds of the sales of lots and other property. In the report of mmittee on Public Buildings, made to the House of Representa- n February 16, 1820, the following language is used:

closing their report the committee think it proper to observe that in so far ublic buildings have advanced, the unexpected expenses of their repairs, since nflagration inclusive, the appropriations heretofore made, and to be made, until completed, can only be considered for the most part as advances made at the Treasury, which will be reimbursed by the sales of the public property in the Washington, which has cost the Government but little. At the time of the of this property as the seat of Government, it, the property, was considered as of revenue which would be amply sufficient for the erection of the public gs, and if the document herewith presented, marked D, is not unreasonable, it be sufficient to complete such as are undertaken. But for their destruction no doubt of the correctness of the calculation made many years since of the cy of the funds for its object.

ument D, referred to, concludes that—

s expectation should be realized it will appear that the public buildings have ected from the proceeds of property created by locating the seat of government place, and that a fund will remain for further improvements.

Meigs, in a report from the Committee on the Expenditures upon blic Buildings, made to the House of Representatives March 21, emarks that—

ears that the valuation of the public lots and actual amount of sales, added onations from the States of Virginia and Maryland, exceed the national ex- re upon public buildings by nearly $400,000. (See American State Papers, Miscellaneous.)

s it appears from reports of commissioners and committees that vernment has realized more from the sales of lots than it paid he Treasury, as well as a large sum in excess of the amount ad- l to its use by the States of Virginia and Maryland.

land obtained by President Washington would have remained of value but for the action of Virginia and Maryland advancing 00, which, giving a fixity and permanence, by actual construction public buildings, to the national capital, and imparted to the ness the quality of city lots. This $192,000 not only started the buildings, but it also augmented the value of the public property ed from the landholders, by making the construction of the public ngs certain, which, without that action by these States, could not een begun, as the Congress had not appropriated any money for blic buildings. In this double light, first, of enabling the com- ners to go on with the public buildings, and, secondly, of the value ed to the city lots, must the action of these States be reviewed.

So far from being a mere selfish act to secure the benefits of adjacency to the Federal capital, this advance by these States was the means of making valuable the whole property acquired by President Washington for the Government. The site of the capital on the Delaware had been abandoned for want of money to commence the public buildings. A like fate overhung that on the Potomac, and would probably have overtaken it had not Virginia and Maryland furnished the first money that gave impetus and life to the young capital.

It is inconceivable that any two States of the Union would, for nearly fifty years, by joint resolutions of their general assemblies, unanimously adopted, persistently instruct their Senators and request their Representatives to urge upon the Congress the payment of an improper claim.

The general assembly of Maryland, by joint resolution in 1842, and by the testimonials of her agents in 1832, and by joint resolutions of February 20, 1878, and again by joint resolutions of 1882, and the State of Virginia by joint resolutions of 1850 and subsequently have urged upon the Congress the payment of these advances.

It is not possible that legislature after legislature in two States from 1842 to 1884 could have been so constituted as not to have contained a single member in either house who would not have questioned and denied the right of the States to a return of this money if the law and the facts of history had not, in the opinion of the legislatures of these States, fully established these transactions to have been advances, and not grants, gifts, or donations. It is contended that these States have slept upon their rights in the matter of their claims, but it must be remembered that the Government has not always been in a condition to meet these demands, not being out of debt until 1837, and it can be justly urged that the Government, being the recipient of the favor, should have made the first movement towards its repayment.

The long delay, the very "staleness of this claim," is consonant with the very spirit of the transaction and with the very essence of an advance. These States designed that the infant Government of the United States, then without money or credit, should enjoy the use of their money so long as the United States was burdened with debt and unable to repay without embarrassment. In that spirit no demand for repayment was made while the revolutionary debt and the debt of the war of 1812–'15 were unpaid. The first surplus of any amount in the United States Treasury was reported in 1836, and was distributed that winter; the panic of 1837 so prostrated all kinds of business that only three-fourths of the surplus was distributed; the remaining fourth never was distributed. There was no surplus again reported until 1841, and Maryland made her demand in 1842, and Virginia in 1850. Thus early these States instituted steps for the collection of these advances; their applications have been favorably considered by committees of the House and Senate, and upon two occasions bills for their relief have passed the Senate but failed to be reached in the House.

The Government has neglected its duty in this regard, and the States, after a lapse of nearly half a century, and embarrassed in their own financial affairs, and when in the mean time the Government had become prosperous and wealthy, sought and have been constantly seeking to reclaim these advances. In a transaction marked with such patriotic devotion, it was not unbecoming in the States to wait long and patiently in expectation that the money advanced would be tendered without the embarrassment of a demand.

ɜ States of Maryland and Virginia now, through their respective atures, request the repayment of their advances, and by such re- have placed a construction upon the acts of their States, which ıld be unjust and ungrateful for the Government as a beneficiary ect or deny.

may not be without propriety to close this report with the re- s of distinguished Senators upon a bill similar to that referred to ommittee. In the debate in the Forty-third Congress on a bill for elief of the State of Virginia—

SEWARD, of New York. Mr. President, the State of Virginia, beyond all doubt, ɔnted to the erection of this Capitol and of those public edifices which we now the Government of the United States, the sum here specified. She either *ad-* that money as a loan to be repaid at some future time, or she gave it to the ıment of the United States. If this money was *advanced* as a loan, the advance l a debt which it is now the duty of the Government to discharge. If, how- he money was contributed by way of gift or donation to the Government of ıited States I do not see that it materially alters the case. In the one case would be an obligation already existing, a debt already to be paid for money has been borrowed. In the other case there is an advance which is the basis ɔral obligation which the Government may at any time recognize and assume, at creates the debt. * * * This moral obligation strikes me as peculiarly ing to the sense of honor of the Government of the United States. We are cupying an edifice which was in part built for us by the State of Virginia; she ɔaratively poor; we are only too rich. I think it does not comport with the ınd dignity of the United States that Congress and the Executive Departments occupy halls for which they are indebted in whole or in part to the generosity States. * * * I am for discharging this obligation and securing to ourselves ht to feel that this Government owes nothing but gratitude to these States.

FISH, of New York. Mr. President. I shall vote for the appropriation of this with great pleasure. I do not care to consider the question whether this was originally loaned or granted. It is enough for me that the States now t as a loan, and I am willing to vote to pay them. * * * I vote for this bill pure merits of the claim.

VADE, of Ohio. The language connected with the original grant, it being some- alled a gift, sometimes a donation, sometimes an advance, sometimes one thing metimes another, would seem to imply that perhaps it was not then expected the would be repaid. All these considerations, however, did not satisfy me that we not to repay the money. I care but little what the expectation was at that time. e States, actuated by magnanimity, and for the purpose of advancing the public ,ave us money to erect the public buildings at that day, when our Treasury was ratively empty, and when it was really an object to have such a donation, I repay them. * * * The great stubborn fact still stands out that while the was poor we availed ourselves of the generosity of those States and took the which they offered. Whether by way of gift or loan I care not. At all events, who had the right to say on what conditions they granted the money, now say it way of advancement to be repaid at some convenient time in the future. On this ɔn I will not stand here to contend with a sovereign State. When she has made ancement or loan, or even a donation, if you please to call it so, and we have l ourselves of its benefits, I will not, when she asks to be repaid, and we have rflowing Treasury, stand here to say that the money was a gift, and therefore not to be repaid. * * * I do not wish to have this Government indebted State in this Union or to anybody. I shall feel that it is under an obligation States of Maryland and Virginia until this money shall have been paid. In gment, the money ought to be repaid. * * * It was a noble, generous act, ought now to respond to it in the same spirit.

ɔn the question of interest to be computed in cases like those pend- ot only does simple justice demand such computation, since a re- ent of the money was first demanded by the States, but numerous lents sanction this course.

ong the acts passed to provide for paying interest on such ad- s made by the States and Territories in the past may be cited on account of the war of 1812 and 1814, for the Indian wars, and e Mexican war.

payment of advances made for the use of the Government in the

Mexican war was provided for by a *general act*, passed June 2, 1848, which contains the following provision with reference to interest:

That in refunding money under this act it shall be lawful to pay interest at 6 per centum per annum on all sums advanced by States, corporations, or individuals, in all cases where the State, corporation, or individual has paid or lost interest, or is liable to pay it. (9 Stat. L., p. 236.)

In the report of the Committee on Claims of the Senate (Report No. 8, Forty-ninth Congress, first session), reported January 6, 1886, the question of the payment of interest by the United States Government is fully and elaborately discussed, and fifty-three statutes from the Statutes at Large are quoted showing it to have been the practice of the Congress to allow interest.

Reference is particularly made to that report for the discussion of the general question of paying interest and to the following examples selected from said Senate report on payment of interest on "advances:"

5. An act approved May 3, 1802, provided that there be paid Fulwar Skipwith the sum of $4,550, advanced by him for the use of the United States, with interest at the rate of 6 per cent. per annum, from the 1st of November, 1795, at which time the advance was made. (6 Stat. L., p. 48.)

27. An act approved May 5, 1824, directed the Secretary of the Treasury to pay to Amasa Stetson the sum of $6,215, "being for interest on moneys advanced by him for the use of the United States, and on warrants issued in his favor, in the years 1814 and 1815, for his services in the Ordnance and Quartermaster's Department, for superintending the making of Army clothing, and for issuing the public supplies." (6 Stat. L., 298.)

41. An act approved February 17, 1836, directed the payment of the sum therein named to Marinus W. Gilbert, being the interest on money advanced by him to pay off troops in the service of the United States, and not repaid when demanded. (6 Stat. L., 622.)

45. An act approved July 7, 1838, provided that the proper officers of the Treasury be directed to settle the accounts of Richard Harrison, formerly consular agent of the United States at Cadiz, Spain, and to allow him, among other items, the interest on the money advanced, under agreement with the minister of the United States in Spain, for the relief of destitute and distressed seamen, and for their passages to the United States, from the time the advances, respectively, were made to the time at which the said advances were reimbursed. (6 Stat. L., 734.)

That report further says that—

The prevalent idea that "the Government never pays interest" has grown up from the practice of the Departments which do not allow interest except where it is specially provided for in cases of contracts or expressly authorized by law. But this usage and custom of the Executive Departments cannot be properly regarded as the settled rule and policy of the Government, for its action upon the subject of interest has not from the earliest time conformed to such usage. On the contrary, it will be found, upon an examination of the precedents where Congress has passed acts for the relief of private citizens, that in almost every case, except those growing out of the late war, Congress has directed the payment of interest where the United States had withheld a sum of money which had been decided by competent authority to be due, or where the amount due was ascertained, fixed, and certain. The highest court of the country has also affirmed this to be not only the practice of the Government but the measure of its duty. Thus, in 15 Wallace, p. 77, where the suit was against a United States collector for the recovery of taxes illegally collected, the Supreme Court used the following language upon the subject of interest allowed on the claim, viz:

"The third exception is to the instruction that if the jury found for plaintiff they might add interest. This was not contested upon the argument, and we think it clearly correct. The *ground for the refusal to allow interest is the presumption that the Government is always ready and willing to pay its ordinary debts.* Where an *illegal* tax has been collected the citizen who has paid it, and has been obliged to bring suit against the collector, is entitled to interest in the event of recovery from the time of the alleged execution."

The Senate report from which the above extracts are taken forcibly states that:

Your committee have directed attention to these numerous precedents for the purpose of exposing the utter want of foundation of the often repeated assumption that "the Government never pays interest." It will readily be admitted that there is no

to sustain this position. The idea has grown up from the custom and
accounting officers and Departments refusing to allow interest generally
ounts with disbursing officers, and in the settlement of unliquidated do-
ns arising out of dealings with the Government. It will hardly be pre-
rever, that this custom or usage is so "reasonable," well known, and "cer-
give it the force and effect of law, and to override and trample under foot
ations and also the well-settled practice of the Government itself in its
with other nations.
overnment like ours, with unlimited resources and revenues at its com-
ld above all things deal justly with its citizens, and certainly with the
particularly when the States have dealt so liberally and generously with
ment as Maryland and Virginia did when they advanced the money to
e public buildings at Washington.

Sumner (Report No. 4, Forty-first Congress, first session, p.
ks that:

im is just, the precedent of paying it is one which our government should
blish. Honesty and justice are not precedents of which either govern-
lividuals should be afraid.

mmittee therefore recommend the passage of the accompany-

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# IEWS OF THE MINORITY.

lersigned, from the Committee on Claims, cannot concur in
of the majority on the bill (H. R. 2504) to provide for paying
lvances made to the United States by the States of Maryland
nia. The proposition embodied in the bill seems to have been
ngress in one stage or another for at least thirty years. In
-eighth Congress, first session, the bill was referred to the
Committee, and the views of the minority thereon were as

## VIEWS OF MINORITY OF COMMITTEE.

rsigned, members of the Committee on the Judiciary, are of opinion that
f Virginia and Maryland have no claim to be reimbursed by the United
he sums furnished by those States toward the erection of the first national
lings at Washington.
known that both before and after the adoption of the Federal Constitu-
vas a serious conflict of opinion as to the proper location of the national
great number of places were claimants for it, and a great variety of con-
entered into the question. Some might be called general, or between the
ctions of the country, but to a large extent it was a strife between partic-
ies, governed by the ordinary selfish reasons of benefit to their locality and
dvancement. The special advantages of such location within a State, or
te proximity to it, were far greater at that day, when the facilities for
communication were so slow and tedious, than they would be now when
d telegraph lines have nearly obliterated time and distance. That Vir-
Maryland should have felt a great anxiety to have the national capital
n the banks of the great navigable river flowing between them was very
d that to secure such great advantages they should be willing to bear
nore than their share of the expense, and use that as an argument in favor
ation, was also natural and probable.
en impoverished condition of the country a pecuniary argument of this
have an influence on the question of location that at this day can hardly
l. So long a time has elapsed, and the records of that time are so meager,
rposes and motives of the actors in these early transactions must be de-
ery much by what seems reasonable and probable.
of Virginia, in 1789 (and before the act of Congress of July, 1790, fixing
ent seat of government), passed a resolution proposing to advance $120,000
d toward the erection of public buildings, "in case Congress shall deem
t to establish the permanent seat of government of the United States on
f the Potomac," and also that "the assembly of Maryland should, on their

part, advance a sum not less than two-fifths of the sum advanced by this State for the same purpose."

After this action by Virginia Congress passed the act of July, 1790, fixing the seat of government on the banks of the Potomac.

The fourth section of that act authorized the President to accept "grants of money" to be used in defraying the expense of purchasing a site and erecting public buildings thereon.

In our judgment there is no room for doubt that this provision was inserted in view of the action of Virginia and the expected action of the State of Maryland, and shows, in the clearest possible manner, that Congress understood the proposition to be one of a gift of money by those States, and not a proposition to make a loan.

Two considerations seem to the undersigned quite conclusive that the proposition was intended as one of gift and not of loan:

First. That the proposition to loan such a sum of money, to be repaid, should be offered, conditioned upon a certain location. Upon its very face it appears that the offer was expected to influence the location, and if it was only an offer of a loan, it seems trifling.

Second. If the affair was only a loan it seems singular that such offer should be on condition that Maryland should also make a lesser, but proportional, loan. Treated as a *grant* or *gift* these conditions are harmonious and reasonable; but on the theory of a loan of money, to be repaid, they seem trivial. The majority report assumes that the word used in the resolutions of both States, *advance*, imports a loan.

We deny this. That is not either the legal or ordinary use of the word. In the case of a loan of money, to be repaid, the word is never used. A factor or consignee of goods for sale advances a part of the price to the owner, for which he holds a lien on the goods to be taken from the proceeds of the sale. A man advances money to the contractor who has contracted to build his house, to be reckoned as a part of the contract price.

A parent advances money to his child, to be reckoned as a portion of the child's share in his estate when divided. But on a loan of money, which creates a debt, to be repaid, we know of no such use of the word, and we think it does not import a loan.

The word might be used so that in connection with the surrounding circumstances it might establish a loan; but its use in this case, connected with the circumstances under which it was used, proves quite the contrary.

But whatever may be the construction or legal meaning of the word "advance," as used by Virginia and Maryland in their resolutions, there is no doubt or dispute as to the act of Congress under which the money was paid. The President was authorized to accept "grants of money." He was not authorized to borrow money or accept loans of money.

The majority of the committee argue that if a party accepts money of another he accepts it as offered, and that he cannot change the character of the transaction by saying he accepts it for a different purpose or upon other terms. This may be true as between individuals, but when a party pays money to a public officer who has been authorized by law to receive it for a particular purpose, and upon special terms, he must be held to accept those terms, because otherwise the officer has no official authority to receive the money.

The reference to the letter of General Washington, we think, proves nothing in favor of the proposition that this was a loan to be repaid. The Government was bound to use the money for the purpose for which it was given. The commissioners to expend the money were bound to keep an account of all moneys received and expended by them from whatever source the money came.

When General Washington's letter was written, in 1793, it appeared that the money received from Virginia and Maryland had not all been expended on the objects for which it was appropriated. It was this state of things to which General Washington was referring, and not at all to any obligation to repay a loan. If it was a loan, and to be repaid at all events, it was not of much consequence what were the details of the expenditures.

The report of Mr. Meigs, referred to in the majority report, speaks of these moneys as "*the donations of Virginia and Maryland.*" Nothing appears in all the early history of this matter, in our judgment, to show that anybody then thought of any repayment of this money or that it was anything but a donation or gift.

The benefits derived by the Government from the arrangement with the land owners, by which the lots of the new city were divided between them, does not seem to have anything to do with the question. This was a contract with private parties, and not with Virginia or Maryland.

The undersigned, notwithstanding the staleness of this claim, would not suggest that as any bar to its allowance, if they could feel there was ever a just claim. It was fifty years before Maryland set up any claim to have this money repaid, and nearly sixty years before Virginia waked up to her rights in this respect. It is said that

during this time the National Government was poor, and these States acted the ordinary part of a rich and lenient creditor to a poor debtor. But years before either State made any claim to have this money repaid, the Treasury of the United States had become so plethoric that they had to resort to the doubtful relief of distributing its surplus to the States. We think it may at least be suggested that the long delay to assert this claim by these States arose from a consciousness that no such claim existed. A word as to the action of a former Senate, and the debate on this claim by former eminent Senators, will conclude all we desire to say.

Each of the Senators who participated in that debate stated that, in his judgment, it made no difference whether this money, advanced by these States, was as a gift or a loan, that in either view it ought to be repaid. We do not agree at all with those eminent Senators. If the Government borrowed this money, and has not paid it, it ought to do so; but if the money was given by these States to the United States, and especially if it was given in view of securing greater benefits to themselves thereby, as we think it was, then there is no obligation on the part of the United States to return the money, and there is no more justice in returning it, or constitutional power to return it, than to make a gift to any other State or person.

The books of the Treasury Department do not show that this claim was ever recognized as an obligation of the Government, in any form or in any sense. But it does appear that within a very few years after the national capital was located at Washington the United States borrowed several hundred thousand dollars from the State of Maryland, which was to be paid in four annual installments, and that the same was paid in installments as agreed.

If this claim now made by Maryland was then understood to have been a loan it is very singular that it should not have been presented and adjusted. This fact furnishes another quite conclusive reason to our minds that this money was understood to be a donation and not a loan.

LUKE P. POLAND.
S. W. MOULTON.
M. A. McCOID.
THOMAS M. BROWNE.
E. B. TAYLOR.
T. B. REED.
H. BISBEE, Jr.

While admitting that the word *advance* sometimes imports a loan, yet because of the remaining reasons set forth in the "views" above recited the undersigned cannot concur with the majority. As to the allowance for interest, it may be observed that there was no evidence produced showing that the State of Virginia ever paid any interest upon the specific sum. Maryland seems to have disposed of some of her public domain to raise her amount. Another consideration ought not to be lost sight of. The Government of the United States is now the holder of a large number of bonds of the State of Virginia, upon which remains unpaid large arrears of interest. There is also charged against the State of Virginia upon the books of the Treasury Department for unpaid taxes, under the direct-tax act of 1861, the sum of $213,501.30. Not only is no provision made in the bill for the off setting of either of these items, but the bill expressly authorizes and directs the Secretary of the Treasury to pay to the treasurer of the States of Maryland and Virginia the amounts found to be due them, respectively, under the provisions of this act."

JAMES BUCHANAN.
WM. WARNER.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 519.

# CLAIM OF CERTAIN STATES AND THE CITY OF BALTIMORE.

FEBRUARY 13, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. TRIGG, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill H. R. 2498, with amendment.]

*The Committee on Claims, to whom was referred the bill (H. R. 2498) directing the Secretary of the Treasury to examine and settle the accounts of certain States and the city of Baltimore, growing out of moneys expended by said States and the city of Baltimore for military purposes during the war of 1812, have had the same under consideration, and ask leave to submit the following report:*

During the war of 1812–'14 with Great Britain, the States of Massachusetts, New York, Pennsylvania, Delaware, Maryland, Virginia, South Carolina, and the city of Baltimore expended certain moneys for military purposes. After many years the United States, acknowledging the debt to be just and payable with interest, refunded the money with interest; but the rule of casting interest that was applied was to compute interest on the sum advanced by the State from the date of advancement up to the time of refunding to the State by the United States any portion of the sum advanced, deduct the sum refunded from the advancement, and then compute interest on the balance; and so on until the final payment of the principal. The aggregate of the interest column so computed was the amount of interest paid (see Second Auditor's Report of October 30, 1858). In other words, the payments were applied, first to the payment of the principal, and, after the principal was wholly extinguished, then to the several items in the column of interest.

Against this mode of computing interest the States formally protested (S. Doc., second session Twenty-second Congress, 1832–'33). It was a plain neglect and refusal of the United States to refund the whole amount borrowed. To illustrate: Suppose, in the emergency of war, Virginia, one of the States, should borrow a million of dollars at 6 per cent., and advance the amount to the United States. Sixteen years afterward, when the interest would about equal the principal, the United States should refund a million, but insist that it shall be applied to the payment of the principal. Sixteen years afterward another million is refunded, and it is applied to the payment of the item of interest; the interest not bearing interest, the whole debt, principal and interest, would be paid, according to this mode of adjustment. Meanwhile Virginia has paid her creditors one million of interest during the first sixteen years, another milli

during the second period of sixteen years, and still owes the million of principal. Virginia, in the case supposed, paid out a million dollars more than the United States refunded. If one borrowed a thousand at 6 per cent. to lend a friend in distress, and after sixteen years the friend should repay a thousand dollars, but compel the lender to accept it in full of the principal, and sixteen years afterward should pay another thousand dollars in full of the interest, leaving his friend still in debt for the principal, what court would sanction such a settlement, and what justice would there be in it? Yet such is the treatment received by the States that made advances to the United States in the war of 1812–'14. It is evident that the United States have not refunded in full the advances made by the States embraced in this bill.

It was not until the act of March 3, 1857, that partial redress was obtained. By that act a re-examination and readjustment of the account of the State of Maryland was directed to be made, and it was provided that in the calculation of interest the following rules should be observed

Interest shall be calculated up to the time of any payment made. To this interest the payment shall be first applied, and, if it exceeds the interest due, the balance shall be applied to diminish the principal; if the payment fall short of the interest the balance of interest shall not be added to the principal so as to produce interest. Second, interest shall be allowed on such sums only on which the State either paid interest, or lost interest by the transfer of an interest-bearing fund.

Under this act Maryland received the additional sum of $275,770.23 and on the 8th of July, 1870, an act was passed directing the account between the United States and Massachusetts and Maine to be reopened and readjusted, and Massachusetts received the sum of $678,362.42, of which one-third was allotted to the State of Maine as an integral part of Massachusetts when the advances were made.

Previously to this period, however, the account between the United States and the State of Alabama had been settled on the basis of the Maryland settlement. Indeed the bill now under consideration passed the Senate of the United States by a vote of 33 yeas to 19 nays, on the —— day of ——, 1857. It went to the House of Representatives which substituted for this bill the following, which was subsequently concurred in by the Senate, and stands as the ninth section of the act of that session:

*And be it further enacted,* That the Secretary of the Treasury be instructed to report to Congress at its next regular session, all applications, made by State authority or the States and cities for the reopening and re-examination of the settlements heretofore made with such States and cities and upon the principle of readjustment upon which such claims are based, and the amount thereof; and the Secretary of the Treasury is further instructed to report to Congress, at its next regular session, the gross amount that will be required to pay such claims to the States and cities of the United States. (11 Stat. at Large, p. 326, an act making appropriations for civil service, approved June 12, 1858.)

The Secretary of the Treasury made his report at the next session of Congress, showing an aggregate, computing interest down to the date of his report, of $1,588,521.69, as follows:

| | |
|---|---|
| South Carolina | $201,230 |
| Virginia | 1,076,683 |
| Delaware | 18,540 |
| New York | 48,896 |
| Pennsylvania | 218,507 |
| City of Baltimore | 23,662 |
| Total | 1,588,521 |

(See Ex. Docs., second session Thirty-fifth Congress, vol. 5.)

t, according to the same report, the following amounts only are due incipal to the several States:

| | |
|---|---|
| Carolina | $78,996 41 |
| ia | 734,069 60 |
| are | 6,341 99 |
| ork | 27,361 81 |
| ylvania | 71,411 19 |
| of Baltimore | 8,027 55 |

e principal amount due Virginia in the above report is evidently take against the Government of the United States. The amount ed by the State as approximately correct is $339,212.

ese are the States embraced in this bill. None others have unset- accounts with the Government of the United States growing out neys expended during the war of 1812.

is bill proposes to apply to the above States that made similar ad- es the same rule of computing interest which was applied in the of Maryland—a rule which has been long and firmly established e decisions of the Supreme Court of the United States, by the ice of every State in the Union, and adopted for many years past e accounting officers of the Treasury.

e bill gives simple (not compound) interest on any balance of prin- l that may be found unpaid, upon the proposed basis of settlement, l its payment by the United States. It provides for any and all er offsets which the United States may have against any of the es hereby entitled.

this particular your committee deem it proper to recommend and rt an amendment to the bill referred to them providing for the de- tion of any balance due from any of said States on account of the ct tax apportioned by the act of August 5, 1861, unless some gen- l act is passed otherwise disposing of the matter, and also providing any unmatured bonds of any of said States held by the United tes shall, with the interest due and unpaid to July 8, 1870, be cred- l and deducted in said settlement as of that date. The Government s the bonds of the State of Virginia issued in 1860 to the amount 581,800, which will not mature until the year 1894, and also holds ilar bonds of the State of South Carolina.

his date (July 8, 1870) was adopted by your committee because it ned to them equitable and just.

n the 1st day of January, 1859, as shown by the report of the Sec- ry of the Treasury hereinbefore referred to, there was due the e of Virginia over $1,000,000, of which more than two-thirds was rest. She had been demanding a settlement and payment for rs. Not being able to obtain what she asked, it is claimed that in extremity she borrowed from the Government the amount repre- ted by the aforesaid bonds. To require these bonds *not yet due* to be paid with the interest due thereon seems unjust, as it would in ct allow the Government in 1860, with a fund that should have paid ortion of the interest she then owed, to create an interest-bearing d which would, if she should arbitrarily delay the settlement long ngh, absorb the larger debt she justly owed the State. It was in- ted that the bonds should be applied as a payment, or set-off, as of ir date in 1860, but your committee, as before stated, adopted July 1870, because that seemed to them equitable and just, and because that time a similar bill for the relief of the State of Massachusetts passed, and there seems no valid reason why the settlement should then have been made with the other States.

In conclusion, the committee recommend a settlement of the accou of the United States with the other States by the same rule of comp ing interest that was applied in the case of Maryland. It makes t recommendation because the rule itself is just and equitable; becat otherwise, the money advanced will not be fully repaid; because rule has been applied to some of the States, and if applied to one sho be applied to all; and because the rule has been repeatedly appro by the Supreme Court of the United States and sanctioned by the pr tice of every State in the Union, and for many years past followed similar cases by the accounting officers of the Treasury.

Therefore the committee report the accompanying bill with the lowing amendment: At the end of said bill, in the twenty-fourth li after the word "required," add the following, viz:

*Also making a deduction as of the 8th day of July*, 1870, *of the amo of principal and interest due at that date upon any bonds of the said Sta matured or unmatured, held by the United States, surrendering said bo so far as they are included in said settlement: Provided, also, That balance remaining due of the direct tax apportioned to the State of Virgi by the direct-tax act of August* 5, 1861, *be held and treated as a proper off against the claims of the State of Virginia in the adjustment herein quired, unless Congress shall otherwise provide by general law, releasing claims for said direct tax or refunding all payments of such tax heretof paid.*

and respectfully recommend its passage, and ask leave to submit a part of this report the following extracts from debate in the Uni States Senate on this subject (see Congressional Globe, vol. 36, part p. 2540, first session Twenty-fifth Congress):

IN SENATE, MAY 31, 1858.

Mr. IVERSON. No, sir; no more than was the case of the State of Maryland. act in relation to Maryland directs that "the proper accounting officers of the Tre ury be, and they are hereby, authorized and directed to re-examine the accounts tween the United States and the State of Maryland, as the same was from time time adjusted under the act," &c.

That proposed a re-examination of an account which had been adjusted, did it n Precisely. Whether the account had been closed or not, whether it had been justed or not, whether it was still in existence or not, this act directed the account officers to re-examine the account for interest, and make the computation on a par ular basis. It was done in the case of Alabama. I desire to apply the same rul all the States. It is just, equitable, and proper, if you apply it to two States, t you should give it to all. I do not know that my State is interested to any great tent. The State of South Carolina is interested, and her account has not been sett The comptroller of that State, in his report to the governor, made a few years states the difficulties between the accounting officers of the United States and hims That account is still lying open. The State of South Carolina protested against settlement by its officers at the time. This amendment will meet that case, and thorize the accounting officers to readjust the accounts of South Carolina on the b applied to the State of Maryland. This amendment simply directs that the provis and principles applied under the twelfth section of the act of 1857, to Maryland, s be applied to all the States. It does not reopen accounts.

Mr. BENJAMIN. Will the Senator from Georgia give us some information on on two points suggested by his amendment? First, in what way this matter comes fore the committee of which he is the organ? Is there a claim from the States? it been referred to the committee on behalf of the States?

Mr. IVERSON. Yes, sir; a memorial from the State of South Carolina was refe to the Committee on Claims, and it was upon that memorial that the committee h predicated their amendment.

Mr. BENJAMIN. A general section?

Mr. IVERSON. Yes, a general section, believing that it was equitable to apply rule to all the States.

Mr. BENJAMIN. The next question I would desire to ask the Senator is: If he any idea what the amount involved in this appropriation will be?

Mr. IVERSON. I have no idea. The comptroller of the State of South Carolina alleges, in his report to the governor of that State, which I have in my hand, that in the settlement between him and the accounting officers of the United States, the State of South Carolina lost $55,000 in interest. That is the difference between the mode of computation of the accounting officers and the mode of accounting as regulated by the act in relation to Maryland. I do not know how other States may be affected. I do not suppose the amounts are very large. I expect that the amount of the State of South Carolina is larger than that of any other State.

Mr. BENJAMIN. It does not seem to me that this section is liable to the objection made by the Senator from Virginia. This is not to pay a private claim of the State of South Carolina. It is a general rule by which the Treasury is to be guided in its settlements with the States; and we having already sanctioned the payments to some of the States on this basis, this section provides that even in cases which have already been closed by the Comptroller of the Treasury, not to the satisfaction of the State, as the Senator from Virginia suggests, but to the dissatisfaction of the State, the account shall be reopened and examined, and settled according to principles which we have declared to be just. The idea of applying a payment made at any time by the Government of the United States to the extinction of a part of the capital of the debt due to a State whilst there remains interest unsatisfied, is contrary to all principle, to every rule by which computation of payments is made. The State of South Carolina having presented this memorial, if the proposition of the Senator from Georgia, now, was to pay that claim, I admit it would be a private claim; but the committee, instead of treating this as a private claim, preferred to report a section which amounts to a general law, for the very reason that they are not willing to act upon the claim of one State as a private claim. My State has no interest in this question; but I do think that justice requires that the adjustment of these accounts with the States should be made all upon the same footing; and, as it has already been made on this footing with the States of Alabama and Maryland, I cannot conceive why South Carolina should be made an exception, or any other State which has had accounts to adjust with the General Government. It is a general rule now provided by Congress for the settlement of accounts with States, and the mode of adjusting the interests that arise in accounts with States. It is not an appropriation for the benefit of the State of South Carolina. The committee, it appears to me, have carefully avoided reporting a private claim, and have *ex industria* changed the legislation into a general law. I do not see that it comes under the rule of the Senate which has been cited, and I shall vote for the amendment.

The PRESIDING OFFICER. Inasmuch as authority is given by the rules to take the opinion of the Senate on questions of this sort, and inasmuch as the facts in this case are disputed, the chair will submit the question of order to the people.

Mr. HAMLIN. I think the matter has been so clearly and so well stated by the Senator from Louisiana that really there can be no doubt about it. Certainly there is none in my mind; and I have only risen for the purpose of inviting the attention of the Senate to its action on other cases which I think are very similar, if not entirely parallel to this. We pass pension laws in which we prescribe the time of service; we prescribe the rules which shall entitle a person to a pension. We find, outside of that class of pensions, a very large class of cases that come very nearly up to the rules we have prescribed; they come here, and what is done? Our Committee on Pensions recommend this special case, and that special case, and they are passed. By and by we see there are so many special cases that we remove the limitation by general law, and it has been done in appropriation bills, precisely in the way now proposed.

I will cite an instance. We removed the limitations as to the time or mode of proof required at the Department, and that takes in a whole class of cases. True, if each one came here and asked action separately by itself, it would be a private claim; but you make a general law to include all cases. That is precisely this case.

I refer, now, to an instance in my mind, with regard to those who drew pensions for revolutionary service. You prescribed, originally, that only those widows of revolutionary soldiers should draw a pension who were married previous to 1783, I think. Then you limited it to 1794; and then you limited it to 1800, because you found such a large number of cases coming so nearly up to the time, that it was deemed advisable to extend it. The last amendment, I recollect distinctly, because I drew it, was ingrafted on an appropriation bill in 1853, and it was to meet a class of special cases here pending.

Mr. GREEN. I will inquire when the rule is to apply under the resolution adopted this morning, for a recess, to-day or to-morrow?

The PRESIDING OFFICER. To-morrow.

Mr. GREEN. Then I move that the Senate do now adjourn.

Mr. HUNTER. I hope that we shall get through with this bill.

Mr. GREEN. We cannot get through, because I have an amendment to offer, and so have others.

Mr. HUNTER. Let us hear them.

The motion to adjourn was not agreed to.

The PRESIDING OFFICER. Will the Senate receive the amendment proposed by th Senator from Georgia?

The amendment was received.

The PRESIDING OFFICER. The question now is on agreeing to the amendment.

Mr. HUNTER. The amendment is a proposition which certainly ought to receiv some examination before it is passed. We ought to know how much money it wil take from the Treasury; we ought to know what changes it is to make in the princi ples on which accounts have been settled with States. I apprehend it will be foun that it makes other changes besides the one which has been referred to by th Senator from Louisiana, the mode of stating the account as to interest and principal I believe there have been some rules as to whether interest shall be allowed to State at all, and upon which settlements have been made with most of the States, and tha will be changed if this provision be adopted; and it is probable that under the chang it will be found that very large sums will be due to the States of this Union. I hav no doubt that most of the old States would come in if this amendment be adopted and some of them might claim very largely. This is eminently a subject for separat legislation. We ought to know what changes are made. We ought to know whethe under this amendment we shall not pay to some States interest on claims on whicl interest has never been voted.

The first deviation, if I remember, was in the case of Alabama; but there it wa determined to make certain allowances of interest, because the State had paid the i terest, because it had sold stocks, as was done in Maine; and an exception was mad in the case of Alabama for that reason. I believe that was the case also in Mary land, where the allowance was on the principle of the Alabama case. Unless yo treat this as having arisen out of those exceptional circumstances, you will reope all the settlements that have been made with the States; and you will pass out the Treasury a large sum of money, in my opinion. I speak, though, only from ge eral recollection; I have had no time to examine the amendment particularly; b I am afraid it will be found when we come to see the effect of it—if it should adopted—that it will go much further than any of us suppose.

Mr. FESSENDEN. The Senator from Virginia, if he would take the pains to read th amendment, would see that it is not open to the objections he has stated. It does n provide, if I read it rightly, for the payment of any interest to a State, in any ca whatever, where interest has not been allowed heretofore. It does not make any ne claim in that respect. The whole amount of it is simply this: The Treasury, as understand, has adopted the rule that where a certain amount of debt is owing to State, and a certain amount of interest has accumulated on that debt, and where th principal thus owing bears interest, and the interest thus owing does not, if the clai is paid in part, they apply that part payment to the principal which bears interes instead of to the interest which does not, thus reversing the rule which exists i every State in the Union and operating most unjustly towards the States themselve For instance, suppose a debt is due to a State, which debt bears interest, and by th law at the same time there is an amount of interest accumulated upon it which doe not bear interest—let us call one $50,000 and the other $30,000, the $50,000 bearin interest and the $30,000 not bearing interest. The Government, in these circum stances, instead of paying the whole, pay up $30,000. Then, instead of applying i to the amount which does not bear interest against the Government, and which th State has paid, they apply it to the principal, reducing the claim which bears interes to $20,000 and leaving the State to lose its interest on $30,000.

Mr. TOOMBS. It is worse than that.

Mr. FESSENDEN. That is bad enough. The provision is, in regard to all these claims which the States have where the United States will not pay accumulating interest, as they ought to do, that the partial payment shall first go to sink the interest that is due. If a man owes me money, and interest has been accumulating year after year which he has failed to pay, and especially if I am in debt for it, as is very often the case with the States, he ought to indemnify me; but the rule adopted by the Treasury is worse than that. They say they will not only not indemnify me and leave me to pay my interest, but when they do make a payment it shall not go to sink the inter est, but to sink the principal, leaving the interest to stand. That is unjust. It doe not apply in the case of any private claim anywhere, but has been arbitrarily adopte by the accounting officers of the Treasury. In the case of Maryland, which was pr cisely similar, Maryland remonstrated, and at the last session Congress said th account should be adjusted upon proper principles—the same principles that exist every State of the Union between man and man—that where principal and intere are due and the Government paid any part, that payment should be applied to t interest first; if it paid it off, very well; if it overbalanced it, the balance should so much towards the principal. This was on the common, ordinary principles justice.

In the case of the State of South Carolina, if I understand it, the officers went

far as to keep an account with the State, crediting her with interest accumulating on the principal, and if there was any left they then took the part they had paid, cast interest on that, and then offset the two! That is to say, they paid their interest in part and retained to themselves the right of offsetting the interest which accrued on their own payment of money due to the State to pay the rest of the debt with. [Laughter.]

It does not do to make it a matter of account current between the two, because the account is really all on one side; but the Treasury officers apply the principle of accounts current to it as if so much was due from Maryland and so much from the United States, and cast interest on both and then offset the two; but, instead of that, it is all due from the United States. They say, "we will owe you the interest; we will pay you part of the principal; we will cast interest on the money we allow you and pay you interest with it." That is the principle they have adopted. This is simply to set that right and to say that where these things exist the Government shall do what is proper. * * * Why, sir, what difference will it make how much money it amounts to? If there be more or less, the Government ought to pay, and pay it at once, without the slightest hesitation, and calculate the interest upon proper principles.

The Maryland provision came from the Senator's own Committee on Finance, and was agreed to by the Senate. If it was proper in that case, why is it not in every other?

Mr. HUNTER. I have stated that was made under peculiar circumstances; that I do not recollect perfectly. The Senator from Maryland can explain them. It will be found, I think, that they do not apply to other cases.

Mr. PEARCE. I will state the facts in relation to the claim of Maryland. The State of Maryland advanced large sums of money to the Government of the United States during the war of 1812, and some time after the close of that war the United States reimbursed the principal. In 1812 an act was passed for the payment of interest to the State of Maryland, and the interest was paid upon a mode of calculation novel to me, though I find it has been adopted as the usual rule of computation in such cases at the Treasury. That is to say, having determined to settle the accounts, and commenced to make payments on it, the first payment was applied to the reduction of the principal, the interest being made to stand aside; and so payments were made from time to time until the whole of the principal was liquidated; and then they went back to the period when they began to pay and ascertained what the amount of interest due at the time was, and paid that sum without any interest on it. In 1829 or 1830 an act was passed through both Houses of Congress authorizing the payment of interest to the State of Maryland upon the proper principle, such as prevailed in mercantile transactions, and it was vetoed by General Jackson, and the veto came in at the next session of Congress, on the ground that it was disturbing the usual mode of settlement. [Laughter.]

After I became a member of the Senate, I revived this claim of Maryland, under instructions from my State legislature, and I introduced a general bill, providing for the liquidation of the interest due to the different States of the Union, which had made such advances in a body. It was objected to by a gentleman, then a Senator from Alabama, who preferred that each State should have its own claim rest on its own basis. He introduced another bill for the benefit of the State of Alabama, and it was passed through the Senate, and under that bill the State of Alabama was paid according to the old mode of computation. The Senate will remark, however, that this rule was always adopted in the allowance of interest. The Government of the United States never paid interest, except where the State had paid interest itself upon its advance, or had lost interest, and Alabama obtained her allowance of interest because the funds which she had applied to aid the General Government were taken from a bank which was her property, and she had thus been obliged to contract her line of discounts, and so lost interest. The State of Maryland obtained interest because she had liquidated the bonds which she had given to her creditors for the money she applied for the service of the Government during the war, by selling United States stock of which she was owner, thus transferring to the liquidation of this obligation an interest-bearing fund. The principle was that the United States would pay no interest, except where interest had actually been paid or lost by the State.

As the State of Maryland came within that category she was entitled to interest, and after long years of dispute on the subject, the Congress of the United States, at the last session, passed the act which has been referred to, providing for the re-examination and readjustment of the account of the State of Maryland, and directing that the interest should be calculated according to certain rules laid down by the Supreme Court of the United States for that purpose; that is to say, first applying the payments to the interest, and when the interest was all liquidated then applying them to the principal; and under that act I think the State of Maryland received, after the last session of Congress, about two hundred and seventy thousand dollars. There are several State, interested in like manner; I do not recollect how many; but when I

originally introduced the bill I carefully noticed the States interested and thei number, and no doubt the amount will be very large. Delaware, South Carolina Virginia, and several other States are interested, and the amount is very large; but I do not know that magnitude of the obligation is any defense against the passage o an act for payment according to the principles of equity which have been applied to the State of Maryland. This is an inconvenient time, it is true, for us to be dunne for this money; but I think we ought to settle fairly, if we do noth ng else. If we cannot pay the money we ought, at least, to acknowledge the obligation.

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[Second session Thirty-fifth Congress.]

IN SENATE, FEBRUARY —, 1859.

The Army bill being under consideration—

Mr. IVERSON. I am instructed by the Committee on Claims to offer the following amendment:

"That all the States which have had or shall have refunded to them by the United States, moneys expended by such States for military purposes during or since the war of 1812 with Great Britain, which have not already been allowed interest upon the moneys so expended, shall now be allowed interest, so far as they have themselves paid or lost it, said interest to be computed by the proper accounting officers of the Treasury, according to the provisions and principles directed to be applied to the case of Maryland by the twelfth section of the act of March 3, 1857, entitled 'An act making appropriations for certain civil expenses of the Government for the year ending the 30th of June, 1858,' and that all the States which have been allowed interest upon claims against the United States, accruing during or since said war of 1812, shall be entitled to have their interest accounts re-examined and restated by the proper accounting officers of the Treasury, according to the provisions and principles of the twelfth section of said act of March 3, 1857, and that those provisions and principles shall govern the computation of interest in all cases in which interest may hereafter be allowed to any of the States. Any money found to be due to any State as directed by this section to be computed and ascertained, shall be paid to such State out of any money in the Treasury not otherwise appropriated: *Provided*, That in lieu of the payment of money, the Secretary of the Treasury pay, the State of Maryland on such sums only on which the said State either paid interest or lost interest by the transfer of an interest-bearing funds."

This provision was applied by that act to the State of Maryland, and under it the accounts of that State were reopened and readjusted at the Treasury Department, and she was paid back, if I remember aright, the sum of $272,000. The amendment which I now propose simply puts all the States precisely on the footing that the act of 1857 put the State of Maryland. It is just and proper that the rule, if applied to one State, should be applied to all; and the rule is itself just and proper. Heretofore the mode of calculating interest at the Treasury Department has been the old one which was in vogue some half century or century ago, and which has long since been exploded in every civilized country. They calculated the interest upon the principal up to the time of the settlement, and they calculated interest upon the various payments up to the time of the settlement, and struck a balance. That mode of calculating interest has been exploded in every State in the Union. Not a single State now adheres to it, although it was, in early days, when I was a boy, the mode of calculating interest. The mode now is that applied to the accounts of the State of Maryland, first to compute interest up to the time of the first payment, and then apply the payment, in the first place, to the extinguishment of the interest, and then apply any surplus to the extinguishment of the principle, and so on of each payment of interest. That is the principle on which the accounts of Maryland have been settled, and I propose to apply it to all the States of the Union. It is just and proper.

The amendment, you will perceive, does not give the States interest unless they paid it themselves or lost it by the transfer of an interest-bearing fund. It is just and proper that every State should be put on the same footing as the State of Maryland. And the principle of settlement proposed is just and proper in itself. It is the mode adopted by every State in the Union in the calculation of interest. I have put in the amendment a provision that the Secretary of the Treasury shall pay the amounts to the States in 5 per cent. bonds of the United States, redeemable in t years, or sooner, at the discretion of the President. The States, I understand, perfectly willing to take 5 per cent. bonds of the United States instead of the mone In the present embarrassed condition of the country, we think it prudent and prop to make this provision. With this explanation of the case, I hope the Senate w adopt the amendment.

Mr. HUNTER. At the last session I voted against the provision when it was introduced, but I believe the opinion of the State which I represent is, that she is entitled to the money; and although I would never have used my official position to introduce it, I feel bound to vote for it as her representative. I suppose, in justice, if we were settling the account originally, this would be the proper mode of doing it. I do not think it well to reopen these old accounts which have been settled, and with the settlements of which the States were satisfied in former times; but the precedent which has been set in the case of Maryland has made all the States desire the application of the same principle to them, and I believe most of them have agents here, and are insisting upon it.

* * * * * * *

Mr. Iverson called for the yeas and nays, and they were ordered.

Mr. FESSENDEN. I wish to say a word about this proposition; because I think, when the Senate understand it, there will be no difficulty in passing it. I think there can be no dispute about it. I advocated this provision last year, against the opposition of the chairman of the Committee on Finance; and I have no sort of disposition to change my action because it turns out that the State of West Virginia is so largely interested as she is. I do not mean to say that that affects his action, because everybody knows that he is not influenced in that way. I mean simply to say, in regard to myself, that Virginia has a large claim under this provision, much larger than it was supposed any State could have; but that does not affect my action, or induce me to change my vote. I have no doubt, from the honorable Senator's well-known habit of looking out for the Treasury, that if Virginia would let him alone, he would vote against the amendment, although his State will be so much benefited by it.

But, sir, the principle of settlement proposed is a very simple one, and a perfectly honest one. In settling these claims the Government officers have heretofore acted on the principle of applying partial payments to the discharge of the principal, and letting the interest accumulate. It is no question about paying interest; that is settled. This *class of claims always carry interest, and it is always allowed.* The Government let the interest run on until it got to be as large as the principal. They then paid a certain amount; but instead of applying that amount to the interest which was due, they applied it to the principal and let the interest stand, which did not carry interest; that is to say, they paid the principal before the interest. They did worse than that in many cases, as I understand; when they came to settle up fairly they charged interest on the payment of the principal up to the time of the settlement, and allowed no interest on the interest existing. Thus they made the payment of the principal eat up the interest.

This mode of settlement was grossly unjust, and as great an outrage as anything could be. It was contrary to the mode in which interest is computed between individual and individual. Maryland applied for a recomputation, and Congress passed a law to allow it. All that is now asked is to place every other State on the same footing—there may be some half dozen of them—that advanced money on the same foundation on which you placed Maryland, not only to do the thing equally as between the States, but to do the just thing, and pay money which is absolutely due without any sort of question.

The following thirty-four Senators voted *in favor* of the amendment, viz, twenty-six in 1858, and eight *others* in 1859: Bayard, Benjamin, Bigler, Bright, Brown, Chestnut, Clark, Collamer, Crittenden, Dixon, Doolittle, Durkee, Fessenden, Fitch, Foot, Foster, Hamlin, Hammond, Harlan, Hunter, Iverson, Kennedy, Mallory, Mason, Pearce, Polk, Rice, Seward, Simmons, Thomson, Toombs, Wade, Wilson, Yulee—34.

The amendment prevailed in the Senate, but failed in the House of Representatives in a close vote, when avowed friends, enough to have carried it, voted in the negative, because of the then condition of the Treasury.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 520.

# SETTLERS AND PURCHASERS OF LANDS ON THE PUBLIC DOMAIN IN THE STATES OF NEBRASKA AND KANSAS.

FEBRUARY 13, 1886.—Committed to the Committee of the Whole House on the state of the Union, and ordered to be printed.

Mr. BUCHANAN, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill H. R. 1413.]

*The Committee on Claims, to whom was referred House bill* 1413, *having considered the same, report as follows:*

This bill was before the Forty-eighth Congress, and was favorably reported by Mr. Payson, from the Committee on the Public Lands (Report 2133, Forty-eighth Congress, first session). For the reasons set forth in said report, your committee recommend that the bill do pass.

The report is as follows:

[House Report No. 2133, Forty-eighth Congress, first session.]

*The Committee on the Public Lands, to whom was referred bill H. R.* 1737, *having had the same under consideration, report:*

That by act of Congress approved July 23, 1866, there was granted to the State of Kansas, for the benefit of what is now known as the St. Joe and Denver Railroad, each odd-numbered section of land for 10 miles on each side of its line, "when definitely fixed."

The railroad company did not accept the land granted, or do anything looking thereto until the 25th of March, 1870, when they filed with the Secretary of the Interior the map of the line of definite location of their road. From the date of the granting act, July 23, 1866, to the performance of the first act of acceptance by the railroad, all the lands within the limits of the prospective grant had been open to settlement at the land offices of the Government, and were taken by settlers and purchasers without reference to the numbers of the sections, the same as any other public land. This state of things continued until April 13, 1870, when the lands within the limits of the grant as shown by the map of the line of definite location were withdrawn from market and from settlement, by order of the Secretary of the Interior. It is with the settlers upon, or purchasers of, these lands between the dates named, *i. e.*, March 25, 1870, and April 13, 1870, that the bill under consideration seeks to deal, and the question arises in this way: When did the grant take effect? From the date of the filing of the map of the line of definite location, March 25, 1870, or from the date of withdrawal of the land from entry at the local land office, April 13, 1870?

The grantees claimed that the law operated as a conveyance from the 25th of March; the settlers and purchasers, that the grant was not operative until the withdrawal, April 13. The facts show that the first knowledge that the settlers or purchasers had that these lands were not properly subject to entry or were liable to be claimed by this or any other railroad was that obtained through notice of their withdrawal from settlement at the local land office at Beatrice, Nebr., where they were alone subject to entry. Nor does it seem legally possible that they should know of such fact prior to April 13, the date thereof, for the *locus* to which the law in question might apply was made to depend upon a fact only within the knowledge of the grantees—namely, the filing of the map of the line of definite location, upon the establishment of which, subject to certain limitations, there passed to them, by virtue of the grant, the lands named therein.

One limitation upon the present operation of the grant relied upon by the purchase and settlers was based on section 4 of said act, which is as follows:

"That as soon as the said company shall file with the Secretary of the Interior map of its line designating the route thereof, it shall be the duty of said Secretary to withdraw from the market the lands granted by this act in such manner as may be best calculated to effect the purposes of this act and subserve the public interest."

Your committee are of the opinion that under such section it was the duty of the Secretary of the Interior to forthwith withdraw the lands subject to the grant (as fixed by the map) from market, that being the way "*best calculated*" to effect the purposes of the act, and the only way in which the public interest in the right of sale and entry therein could be secured (subserved) without a damaging interval between the withdrawal of the lands by operation of law on the filing of the map of location and their restoration to sale under the grant as contended for by the grantees, and that pending such withdrawal the lands were public lands, as to which the public had a perfect right of entry and purchase.

Whether according to law or not, this is what the land officers of the Government in fact did. Against certain of the entries so made the railroad filed contests, putting in issue the questions above stated.

The local land office decided that the lands were subject to entry until they were withdrawn by order of the Secretary of the Interior, and that all entries prior to April 13, 1870, were good.

It is not contended but what this holding of the local land office was in keeping with the ruling of the Interior Department since 1854.

In 1872, on appeal, this ruling of the local land office was reversed by the Commissioner of the General Land Office, and cash entry No. 3097 and homestead entry No. 4039 (test cases) were held for cancellation.

This decision was in accordance with the holding of the Secretary of the Interior in the case of Boyd *vs.* the Burlington and Missouri Railroad Company, decided April 28, 1871, wherein it was held that the grant of that corporation took effect from the date of the filing of their map. On appeal from such ruling, the Secretary of the Interior, September 3, 1872, reversed the decision of the Commissioner of the General Land Office canceling such entries, and restored the settlers and purchasers to all their rights in respect to the same.

The letter of the Secretary of the Interior transmitting that of the Commissioner of the General Land Office, giving the history of this controversy and his views on the bill in question, is given in full, and is as follows:

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
*Washington, D. C., January* 24, 1884.

SIR: I have the honor to acknowledge the receipt by your reference, for report, a communication from Hon. P. B. Plumb, chairman of the Senate Committee on Public Lands, dated the 7th instant, transmitting Senate bill No. 57, entitled "A bill for the relief of settlers and purchasers of lands on the public domain in the States of Nebraska and Kansas."

In reply I have to state the bill pertains to certain lands within the limits of the grant to the State of Kansas to aid in the construction of the Northern Kansas Railroad and Telegraph, now known as the Saint Joseph and Denver City Railroad Company (14 Stats., page 210).

The records of this office show that a map of the definite location of the Saint Joseph and Denver City Railroad, as adopted by the board of directors of the company March 21, 1870, was received in this office, with a letter from the then Secretary of the Interior, dated the 28th of the same month.

By letter from this office, dated the 8th of April, 1870, the local officers of the several land districts in which the grant was located were directed to withdraw from sale or entry all the odd-numbered sections within the limits of the grant. This order was received at the local offices April 13 and 15, 1870, which dates were formerly held as the times when the right of the company vested to the lands granted.

Under that construction of the granting act, entries were allowed to be made for lands within the limits of the grant until said dates, April 13 and 15, 1870.

This appears to have been the established rule of the office, in compliance with the provisions of the act approved March 27, 1854 (Revised Statutes, 2281). (See circular of February 10, 1870, Copp's Land Laws, page 403.)

That rule was subsequently changed by the opinion of Assistant Attorney-General Smith, concurred in by then Secretary of the Interior, dated April 28, 1871, in the case of S. M. Boyd *vs.* The Burlington and Missouri Railroad Company (Copp's Land Laws, page 392), and afterward it was held by the Department that the right of the company attached on the day of the adoption of the line by the company, March 21, 1870.

March 25 and April 1, 1872, a number of entries which had been initiated between March 21 and April 15, 1870, were held for cancellation, so far as they included odd-numbered sections within the limits of the grant to said company.

Appeals were taken by parties in interest, and two cases, that of A. W. Nickell, cash entry No. 3097, and W. L. Cutler, homestead entry No. 4039, were submitted to the Department as test cases August 6, 1872.

September 3, 1872, the acting Secretary, W. H. Smith, held as follows:

"These entries and the others of like character were allowed under a ruling of your office then in force, to the effect that the railroad acquired no right to lands until the notice of withdrawal was received at the local office. You directed them to be canceled, pursuant to a later ruling of the Department on the subject.

"This ruling is intended to be prospective in its operation, and not to disturb past transactions. Your decision is therefore reversed." * * *

In compliance therewith this office released that class of entries from suspension.

The Supreme Court of the United States, in the case of Van Wyck *vs.* Knevals, held that the right of the company attached on the day of the acceptance by the Secretary of the Interior of the map of the definite location of the road, which was March 28, 1870 (16 Otto, 36.).

Under this decision, if the land was clear of adverse claims at that date, and was entered or purchased from the Government prior to April 15, 1870, the patents issued thereon are invalid.

The pending bill proposes relief for that class of settlers or purchasers whose claims had their inception subsequent to March 28, 1870, in cases where the lands were not excepted from the operation of the grant by prior valid adverse claims.

It is apparent from the foregoing that settlers who, under the rulings of the Department, were permitted to initiate claims upon lands within this grant after said date, and subsequently received patents for the same from the Government, which the courts have declared invalid, have strong equities, and I think the proposition for their relief embraced in the bill as good as any that occurs to me and which would be practicable.

I think the bill should pass.

The bill referred by you is herewith returned.

I am, very respectfully,

N. C. McFARLAND,
*Commissioner.*

Hon. H. M. TELLER,
*Secretary of the Interior.*

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DEPARTMENT OF THE INTERIOR,
*Washington, January 29, 1884.*

SIR: Senate bill 57, "for the relief of settlers and purchasers of lands on the public domain in the States of Nebraska and Kansas," was received by your reference of the 7th instant, and referred to the Commissioner of the General Land Office. I have the honor to inclose herewith copy of his report on the subject under date of the 24th instant.

Very respectfully,

H. M. TELLER,
*Secretary.*

Hon. P. B. PLUMB,
*Chairman Committee on Public Lands, United States Senate.*

In such determination of their rights the railroad company acquiesced.

The purchasers and settlers complied with the laws, took patent to their lands, and for nearly ten years were left in peaceful possession under a title supposed to be the best in the United States.

It is important at this point, in determining the equities set up by the settlers against the Government, to observe, that had not this litigation as to their title taken place at the time it did the claim now advanced would have been in a great degree weaker than it is.

When their title was challenged by the railroad they promptly appealed to the Land Department authorities of the Government to know whether it was good or not, and whether the Government could ultimately give them a perfect title. If they were ever to lose the land, then was the time for them to know it. They had made little or no improvement; there was plenty of land near at hand as good as that taken, and to which they could unquestionably get a good title.

To mislead them then was to rob them of all opportunity to regain their loss save as they seek it now.

To their questions as to the legality of their holding, the Government, by its officers, answered, you are all right; go ahead with your settlements; comply with the law, and you shall have a perfect title. They did so, built homes, reared families, im-

proved their lands, paid taxes, and developed the country, trusting without suspicion to the official acts and decisions of all the officers of the Land Department. And now, when these men, stripped of the fruit of their toil by much and merciless litigation brought upon them by the errors of the Government they trusted, come and ask that they may be defended from ejectment and exile from their home by the payment to them of the money it has cost them to buy in the title which they have already bought of the United States, your committee submit that the Government is estopped from denying them relief—for to refuse would be for it to take the advantage of its own grievous errors.

Concerning the final overthrow by the courts of the patents of the Government held by settlers and purchasers to these lands, your committee find that prior to 1879 the Saint Joe and Denver Railroad had passed into the hands of a receiver, and that whatever lands it was entitled to under the grant in question had become the property of Sherman W. Knevals and others by purchase at judicial sale.

On the 3d of July, 1879, Knevals brought suit in the United States circuit court for Nebraska against one Judson R. Hyde, who recently prior thereto had purchased a portion of the land within the limits of this grant, the title to which had been acquired between March 25 and April 13, 1870. Knevals alleged that the granting act operated as a conveyance from the date of the filing of the map of the line of definite location of the road with the Secretary of the Interior, and that, as the grantee of the railroad, he was the owner of the same. The case was heard on demurrer to complainant's bill, the demurrer was overruled, and on October 11, 1879, Hyde having failed to answer, a decree was entered for Knevals. From this decree neither error nor appeal was prosecuted by Hyde. On or before June 18, 1881, seventy-nine other cases were brought by Knevals in the same court against as many different defendants, against all of whom he alleged a like course of action to that against Hyde.

All, or nearly all, of the persons so sued were then living on the land, to which they had acquired title by complying with the homestead or pre-emption laws. Those who had not taken patent to themselves held through others who had acquired it.

Knevals sought by his suits to have the legal title to the lands in question declared to be in him, and that the owners thereof held the same in trust for him, and for a decree commanding them to convey forthwith, and in default of this that the same be conveyed by a special master, and for possession.

The settlers and owners answered in substance that they were in possession under the patent of the United States, which they had acquired by compliance with law, and by virtue of which they were the owners of the land.

This litigation put in issue the same questions that had formerly been litigated before the Land Department and decided in favor of the purchasers and settlers. Stripped of its legal verbiage, the question was: If the lands within the grant were open to settlement until withdrawn, then the settlers had all the title to lands taken up to April 13, 1870, and Knevals had none. If they were not open to settlement after the filing of the map, March 25, 1870, then Knevals had all the title to lands taken after that and the settlers had none. November 19, 1881, a test case was tried on an agreed statement of facts, and a decree rendered for Knevals and against the settlers. From this decision an appeal was taken September 9, 1882, to the Supreme Court of the United States, at the October term of which court, 1882 (see Van Wyck *vs.* Knevals, 16 Otto, 106 U. S., 360), a decision was rendered affirming that of the court below, holding that the grant in question took effect as a conveyance March 25, 1870, and that the lands covered thereby were not subject to entry thereafter, and that the settlers or purchasers took nothing by their patent, and that they held the legal title in trust for Knevals, and commanded the making of a deed in keeping with the decree in circuit court, and the immediate delivery over of the possession of the land held by them.

Actions of like nature against 116 other defendants have been brought by the other purchasers and holders of the title of the Saint Joe and Denver Railroad, all of which are now pending, decided or undecided, which, following the precedent in Van Wyck *vs.* Knevals (16 Otto, *supra*), will be decided against the holders of patent from the United States.

With the decision in Van Wyck *vs.* Knevals, in the Supreme Court of the United States, ended the last hope of the settlers and purchasers for legal relief.

Anticipating the adverse decision in the Supreme Court, the settlers had applied to the Forty-seventh Congress for relief, stipulating with Knevals and others that pending the action of that body he would not press matters further in the courts until the expiration of the Forty-seventh Congress. A bill for the relief of settlers on and purchasers of this land, like the one now under consideration, passed the Public Lands Committee of the Senate, and the Senate itself, at its first session, without objection, and came to the House, where, during the second session of that Congress, it received the unanimous approval of the Public Lands Committee, but was not reached for consideration by the House.

The effort to obtain Congressional relief having failed, and the stipulation with Knevals for delay having expired, the settlers were brought face to face with the fact

that they had got to come to some settlement with Knevals or be driven from their homes. Knevals had put the master's deeds to their homes on record, was offering them for sale, had demanded possession, and upon its refusal was about to apply to the court for a *posse* to forcibly eject them from their premises. Under these circumstances the settlers and others were driven to a settlement which was finally agreed on, so far as the Knevals cases went, at the rate of $3.50 per acre and costs. To pay this the settlers and purchasers gave mortgages, or raised it as best they might, or lost the land.

As the question may arise as to whether settlement with Knevals could not have been effected for a less amount, it is fair to state to the House that your committee are satisfied from the evidence and circumstances in the case that this settlement was a remarkably reasonable one.

The land had risen in value with the improvements put upon it by the holders and the growth of the country to be worth from $10 to $25 per acre, so that Knevals, taking into account the expense of litigation, was getting little more, if not actually less, than Government price for the land; and again the settlers were paying what they did without any certainty of getting it back. Arrangements for a settlement of the other cases have been made with other grantees of the railroad at from $1 to $2.75 an an acre, but in no case under this bill can they receive more than $3.50 per acre and costs where they have been subjected to the same. This guards against extravagant or collusive settlements. And this is the status of the case outside of Congress to-day.

At the present session of this Congress the bill under consideration has passed the Senate without opposition or an opposing vote.

The number of persons so far sued and subjected to adverse judgment is one hundred and ninety-six; the amount of land involved is 25,620 acres.

What additional number of persons are affected, and what further amount of land involved, your committee cannot well determine. The amount of money required to make good the cases so far shown in the records of the court will not exceed $100,000 or less than one-half of the appropriation indicated by the bill; and that from all information brought to the attention of the committee the balance will be more than enough to protect from loss all other sufferers.

In reaching its conclusion in this case your committee have weighed with grea care all the objections that have been made, and have reached their determination from what they believe to be the most enlightened views of policy. The appeal comes from, and the relief will go to, two hundred families of Kansas and Nebraska, who in good faith took these lands for homes when that country was a wilderness on the frontier, subject to the predatory raids of wild and hostile Indians. When they could have left the land and got other as good and beyond dispute, the Government, by its agents, bid them stay, and they did, and have seen the land rise from a worthless wilderness to become by their toil the home of beautiful plenty, and now, so far as their country and her courts are concerned, they are to be driven from their lands, robbed of their labors, and in the decline of life left homeless in the world, all because of the errors of the officers of the Government, to whom they now appeal, asking that it make good the promise of a good title, as evidenced by the patent which they hold. Probably fully four-fifths of these men were soldiers, who fought four years for their country, and who on all accounts deserve a better fate at the hands of a free nation which they fought to save, when so many Russian serfs, Irish tenants, or Mexican peons, whose ejectment under like circumstances we as a people would resent.

The bill as presented only asks relief for such persons, their grantees, heirs, and devisees as under homestead, pre-emption, or other laws settled upon or purchased lands within the grant in question and to whom patents have been issued therefor, but against which decrees have been or may hereafter be rendered by the United States circuit court on account of the priority of the grant in question to the patents held by such persons, their grantees, *et al.*

As this requires all cases to be passed upon by the courts and the consequent expense of litigation to the holder of the patent, and of costs to be paid by the Government, your committee propose to amend the bill by adding after the word "aforesaid" in the last line the following proviso:

"*Provided further*, That when any person, his grantees, heirs, assigns, or devisees shall prove to the satisfaction of the Secretary of the Interior that his case is like the case of those described in the preceding portions of the bill, except that he has not been sued and subjected to judgment as hereinbefore provided, and that he has in good faith paid to the person holding the prior title by the grant herein referred to the sum demanded of him without litigation, that such Secretary shall pay to such person such sum as he has so paid, not exceeding three dollars and fifty cents per acre, taking his release therefor, as hereinbefore provided."

Amend the bill by adding after the word "of," in line 31, the words "what he shall have paid not exceeding."

And, as so amended, your committee recommend that the bill do pass.

:H CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 521.

# E BELL AND PAN-ELECTRIC TELEPHONE COMPANIES.

EBRUARY 13, 1886.—Referred to the House Calendar and ordered to be printed.

. EUSTACE GIBSON, from the Committee on Expenditures in the Department of Justice, submitted the following

## REPORT:

*e Committee on Expenditures in the Department of Justice, to whom cas referred the resolution of the House authorizing an inquiry into xpenditures in the matter of the Bell and Pan-Electric Telephone Comanies, a copy of which is embraced in exhibit hereto attached and marked A, have duly considered the same, and submit the following report:*

The resolution directed and empowered the committee to make full quiry into any expenditure on the part of the Government relative to e rights of the Bell and Pan Electric Telephone Companies. The mmittee having said resolution under consideration at its meeting ld on February 4, adopted the preamble and resolutions attached reto marked A, and a copy thereof was transmitted to each head of e Treasury and Interior Departments and the Department of Jusce. Answers have been received from each of the said Departents, the originals of which are attached to this report and marked, spectively, Exhibits B, C, and D. From them it appears that the m of $35.80 has been spent for printing the opinions in the Dertment of the Interior, and the Solicitor General has contracted for es to be paid by the United States to the amount of $3,000, and for her fees not fixed at the date of the answer from the Department of stice. These and no other expenses appear to have been incurred. e author of the resolution, Mr. Hanback, was called upon to suggest y further evidence, but had none to offer on the specific question put the resolution referred to this committee by the House.

Your committee did not feel authorized to go beyond the question us submitted.

Your committee has for these reasons sent for no persons and has curred no expense.

### EXHIBIT A.

Whereas the House of Representatives has passed a resolutio , introduced by the n. Lewis Hanback, M. C. from the State of Kansas, in the following words:

'*Resolved*, That the Committee on Expenditures in the Department of Justice be powered to make full inquiry into any expenditure upon the part of the Governnt relative to the rights of the Bell and Pan-Electric Telephone Companies; and for purpose of this investigation, and to the end that the people may be fully advised, committee is granted the right to send for persons and papers; all expenses to be

audited and accounted for upon approved vouchers, and, when so approved, to be p out of any moneys in the Treasury not otherwise appropriated":

Therefore,

*Resolved* (1), That the chairman of this committee notify Mr. Hanback, in writ that at its meeting on the 13th day of February, 1886, this committee will begi "inquire into any expenditure on the part of the Government relative to the ri of the Bell and Pan-Electric Telephone Companies," and will hear any evidenc may submit or suggest pertinent to such inquiry.

*Resolved* (2), That a copy of said resolution of the House be furnished to the Sec tary of the Treasury, the Secretary of the Interior, and the Attorney-General of United States, with a request that each of them furnish this committee, as soo practicable, with copies of any papers or documents in their possession, custod control, showing anything with regard to "any expenditure on the part of the ernment relative to the rights of the Bell and Pan-Electric Telephone Compani whether said expenditures have been paid or obligations therefor incurred.

*Resolved* (3), That the form of notice to the Hon. Lewis Hanback and of reques said officers above mentioned, shall be a copy of these three resolutions.

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EXHIBIT B.

TREASURY DEPARTMENT, *February* 12, 18

SIR: I have the honor to acknowledge the receipt of a transcript of the proceedi of the Committee on Expenditures in the Department of Justice, at its meeting on the 4th instant, relating to a resolution directing the committee to "inquire any expenditure on the part of the Government relative to the rights of the Bell Pan-Electric Telephone Companies," and calling upon this Department to furnish committee, as soon as practicable, with copies of any papers or documents in its session, custody, or control, showing, with regard to any expenditure on the pa the Government relative to the rights of the Bell and Pan-Electric Telephone C panies, whether said expenditures have been paid or obligations therefor incurre

In reply thereto I have to state that the records of this Department do not s that any expenditures have been incurred by the Government relative to the righ the Bell and Pan-Electric Telephone Companies, nor are there any papers or d ments in its possession, custody, or control, relative to the rights of said compa

Respectfully, yours,

D. MANNING,
*Secreta*

Hon. EUSTACE GIBSON,
*Chairman Committee on Expenditures in Department of Justice,*
*House of Representatives.*

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EXHIBIT C.

DEPARTMENT OF THE INTERIOR,
*Washington, February* 10, 18

SIR: In response to resolution of the Committee on Expenditures in the Departm of Justice, that said committee inquire into any expenditure on the part of the ernment relative to the rights of the Bell and Pan-Electric Telephone Compani have the honor to state that the only expenditure incurred by this Departmen far, has been for the printing of five hundred copies each of the opinions of the retary of the Interior, the First Assistant Secretary, and the Assistant Secretar a total cost of thirty-five dollars and eighty cents ($35.80).

Very respectfully,

L. Q. C. LAMAR,
*Secreta*

Hon. EUSTACE GIBSON,
*Chairman Committee on Expenditures in Department of Justice,*
*House of Representatives.*

EXHIBIT D.

DEPARTMENT OF JUSTICE,
*Washington, February* 8, 1886.

SIR: Your communication of the 6th instant, transmitting a transcript of the proceedings of your committee relating to the resolution directing the committee "to inquire into any expenditure on the part of the Government relative to the rights of the Bell and Pan-Electric Telephone Companies," has been referred to me by the Attorney-General. In reply I have the honor to inform you that no expenditure whatever has yet been made on the part of the Government in the matter referred to. The suit instituted in the circuit court of the United States for the Western District of Tennessee, upon the application of the National Improvement Telephone Company, has been discontinued. No money was expended in that suit on the part of the Government, and no obligation to expend any was incurred.

In accordance with the recommendation of the Interior Department, it has been determined to institute a suit in the name of the United States to test the validity of the patent issued to Alexander Graham Bell on the 7th of March, 1876. Recognizing the great importance to the Government and people of the proposed suit (with the conduct and management of which I am charged under section 347 of the Revised Statutes), I have deemed it necessary and proper to employ and retain assistant attorneys and counsel. Accordingly, Hon. A. G. Thurman, of Ohio; Grosvenor B. Lowrey, esq., of New York; Messrs. Hunton & Chandler and C. S. Whitman, esq., of this city, have been retained. No arrangement has yet been concluded with Messrs. Thurman and Lowrey as to the fee to be paid to them, but the amount of their fee will be fixed as soon as they arrive in this city. The services of Messrs. Hunton & Chandler have been engaged for $5,000, and the services of Mr. Whitman for $3,000. It may be proper to add that the conduct of the suit referred to has been devolved upon myself by the Attorney-General because he felt himself to be under disability in this instance.

Very respectfully,

JOHN GOODE,
*Solicitor-General.*

Hon. EUSTACE GIBSON,
*Chairman Committee on Expenditures in Department of Justice,*
*House of Representatives, Washington, D. C.*

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 599.

# BRIDGE OVER THE MISSISSIPPI RIVER.

FEBRUARY 16, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. CRISP, from the Committee on Commerce, submitted the following

## REPORT:

[To accompany bill H. R. 5861.]

*The Committee on Commerce, to whom was referred the bill (H. R 2928) to authorize the construction of a bridge over the Mississippi River at or near Alton, Ill., and for other purposes, have had the same under consideration, and beg leave to submit the following report:*

The committee herewith report a substitute for said bill, which meets the approval of the Secretary of War and also that of the persons desiring the bridge.

This substitute is in compliance with the requirements and restrictions usual in such grants by Congress, and the committee recommend its passage.

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 523.

# BRIDGE ACROSS DETROIT RIVER.

ARY 16, 1886.—Referred to the House Calendar and ordered to be printed.

ISP, from the Committee on Commerce, submitted the following

## REPORT:

[To accompany bill H. R. 1205.]

*mmittee on Commerce, to whom was referred the bill (H R. 1205) to de for the construction of a bridge across the west channel of the De- River, to connect Belle Isle Park with the mainland, have had the under consideration, and beg leave to submit the following report:*

nformity with the recommendation of the Secretary of War, they certain amendments. Thus amended the bill is satisfactory to rests and in compliance with the requirements and restrictions n such grants by Congress, and the committee recommend its .

*nents proposed by the Committee on Commerce to House bill* 1205.

tween the words "that" and "the," in the third line of first sec- ere be inserted the following words: "the assent of Congress is given to."

fifth line, first section, strike out the following words: "be, and y granted authority."

eighth line, first section, strike out "to," and insert "and."

second section, fourth line, between the words "span" and insert the words "of not less than one hundred and twenty- clear opening on each side of the pivot pier."

sixth section, line 3, strike out "sunrise" where it occurs, and "sunset," and strike out "sunset" where it occurs, and insert e."

C

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 524.

# FREE COINAGE OF SILVER.

FEBRUARY 16, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. JAMES, from the Committee on Coinage, Weights, and Measures, submitted the following

## REPORT:

[To accompany bill H. R. 5690.]

*The Committee on Coinage, Weights, and Measures, to whom was referred the bill H. R. 5690, submit the following report:*

That they have carefully considered the same, and the majority is of the opinion that the passage of such a bill would be injurious to the public interest, and, with an expression of their unqualified condemnation, they report the same adversely, and ask that it be put upon the Calendar.

O

TH CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT 524,
1st Session. } { Part 2.

# FREE COINAGE OF SILVER.

EBRUARY 16, 1886.—Referred to the House Calendar and ordered to be printed.

r. BLAND, from the Committee on Coinage, Weights, and Measures, submitted the following as the

## VIEWS OF THE MINORITY:

[To accompany bill H. R. 5690.]

Gold and silver have been used as precious metals, and for the purpose of commercial exchange, from time immemorial, and have, from the beginning of civilization, been recognized as money at certain ratios of value. One of the fundamental principles of metallic money is that nature supplies the volume; the stock on hand of gold and silver throughout the world, together with that which from time to time is being extracted from the mines, constituting the monetary supply. Consequently, the volume is not subject to the control of the legislator.

Without going into the history just at this time of metallic money in the various countries of the world, suffice it to state that gold being used in one country exclusively, silver in another, and still others both gold and silver, as standard of money, constitutes the world bimetallic.

Recognizing this fact, and the further fact that by common law both gold and silver were money in the colonies, our fathers constituted this country bimetallic when they provided that the States should make nothing but gold and silver legal tender for the payment of debts, and by the first mint act (1792) authorized the coinage of both gold and silver as the full legal-tender money. Also, recognizing the principle that nature, in the manner stated, should supply the volume of money, the only duty that devolves upon the legislator is to establish, by law, the ratio of value for the coinage of the two metals, and to provide for the unlimited or free coinage of both at the ratio established. They opened the mints of the Government to all comers of gold or silver bullion to be stamped or struck into legal-tender coins.

Having done this, the law of supply and demand regulated the volume. This was our monetary system from 1792 until 1873, when, under the pretext of amending the mint act, the provision that authorized the coinage of a legal-tender silver dollar was omitted, and thus, in effect, demonetizing silver.

Without discussing the circumstances under which this demonetization was done or the purposes for which the same was accomplished, it may be said that the act was passed at a time when the country was on a paper basis, neither metal being in circulation. Therefore, it was done at a time when legislation, with reference to the coin circulation of the country, was not likely to attract the attention of the people.

This act was clearly an infraction of the true theory of bimetallism, and in conflict with the Constitution. It assumes that Congress should

exercise the power of controlling the volume of money, by prohibiting the coinage of one of the monetary metals recognized in the Constitution. If, under the Constitution, Congress has the power to prohibit or limit the coinage of silver, so it has that of gold.

To admit that it can demonetize one of the metals is to admit that it can demonetize both; therefore, the gold monometallists, who are so swift in their denunciations of the Supreme Court for holding that Congress has the power to issue paper legal tenders, should consider the result of their own theory of monetary science. For, if Congress has the power to demonetize the metals, it must necessarily result in exercising the authority claimed by the decision of the Supreme Court—that is, in printing legal tenders and forcing them into circulation.

As a constitutional question, it is here claimed that Congress has no lawful right to demonetize either gold or silver; but it is the plain duty to provide for the coinage of both at some regulated value or ratio. The Constitution says "the Congress shall have power * * * to coin money, regulate the value thereof, and of foreign coin." Again, "No State shall * * * make anything but gold and silver coin a tender in payment of debts."

By the mint act of 1792 the silver dollar as it is now coined—that is to say, a dollar containing three hundred and seventy-one and a quarter grains of pure silver, was made the standard of value, and was continued until 1873, when it was dropped from the coinage.

One of the most important questions connected with the restoration of silver to where it was before this change, is the question of the public debt. As compared to gold, silver is now depreciated. It is therefore claimed that it will not be in good faith to our public creditors to pay them in silver dollars. Without going into facts and figures it is generally admitted that the bullion contained in the silver dollar will purchase as many of the necessaries of life at this time, and more, than it would have done when dropped from the coinage; and more than in 1855, or '65, or in '70. Consequently, as compared to commodities, it has not depreciated; but owing to the change in Germany from the single silver standard to the gold standard in 1870 and the suspension of silver coinage by France and other states in the Latin Union, the demand for gold has been very great, and, consequently, compared to silver, its value appreciated. Again, as is well known, the refunding acts of 1870 and 1871 provided for refunding the whone public debt into a coin debt, and that the principal and interest of the bonds authorized should be paid in coin of the standard value of 1870. At that time the silver dollar (412½ grains) was the standard of value, and the coin called for in the bond was that dollar or the gold dollar (25.8 grains), at the option of the Government. There is this inscription on face of bonds of the 5 per cent. funded loan of 1881:

This bond is issued in accordance with the provisions of an act of Congress entitled "An act to authorize the refunding of the national debt," approved July 14, 1870, amended by an act approved January 20, 1871, and is redeemable at the pleasure of the United States after the 1st day of May, A. D. 1881, in coin of the standard value of the United States on said July 14, 1870, with interest in such coin from the day of the date hereof, at the rate of 5 per cent. per annum, payable quarterly on the 1st day of February, May, August, and November, in each year. The principal and interest are exempt from the payment of all taxes and duties of the United States, as well as from taxation in any form by or under State, municipal, or local authority.

Also on the face of the United States 4 per cent. bond:

This bond is issued in accordance with the provisions of an act of Congress entitled "An act to authorize the refunding of the national debt," approved July 14, 1870, amended by an act approved January 20, 1871, and is redeemable at the ple

re of the United States after the 1st day of July, A. D. 1907, in coin of the standard alue of the United States on said July 14, 1870, with interest in such coin from the ay of the date hereof at the rate of 4 per cent. per annum, payable quarterly on the t day of October, January, April, and July in each year. The principal and interest are exempt from the payment of all taxes or duties of the United States, as well from taxation in any form by or under State, municipal, or local authority.

All the interest-bearing coin obligations of the Government now outanding were issued by virtue of this act, except the 3 per cent. bonds sued under the act of 1881, or since silver coinage was resumed, and e payable in either gold or silver coin. Therefore, to restore the silr dollar and compel its payment in the redemption of these obligaons would be no violation of contract or of good faith on the part of e Government towards its creditors.

The opponents of the free coinage of silver insist that because Gerany changed her monetary system from the single silver standard to e gold standard, and because France and the Latin Union have susnded the coinage of silver, that therefore it would not be safe for us restore it; that to restore silver would have the effect of displacing ld from circulation, and we would be placed upon a single silver andard. This matter should receive some investigation and considation.

It is here claimed, in the first place, that a double standard necesrily implies that the Government adopting it recognizes the principle at the debtors may have the right of payment at their option in the eaper metal. Gold was cheaper than silver from 1834 until 1873 and terwards, and was used by the people and the Government, and no one er claimed or pretended that there was any violation of contract or good ith as between debtor and creditor. No one then insisted that the nount of gold in the gold dollar should be increased so as to correond with the value of the silver dollar. (We think it may be said, ssibly, it was because we had no public creditors.)

The restoration of silver here will necessarily give a demand for it at has not existed since 1873, and will have the tendency to restore to a parity with gold, and it is believed will so restore it; but whether be so or not it is insisted that we owe no debt that is not legally and orally payable in silver, and even should we go to a single silver standrd no harm would come of it.

The effect of law upon the subject of maintaining the parity of the etals is illustrated by the history of France. That Government in 1803 dopted the ratio of 15½ of silver to 1 of gold, giving free coinage to oth metals at this ratio. As a consequence that ratio was maintained rom 1803 to 1874, when she suspended the coinage of silver. Even he German demonetization did not depreciate silver. The action of he French Government in limiting the coinage and finally suspending t, first broke the parity between the two metals.

And right here it may be well to refer to a statement made by Mr. ernuschi before the United States Silver Commission, in 1876, to a quesion by Mr. Bogy, as follows:

By Mr. BOGY:

Question. By retaining 16 here and 15½ there, our silver would, of course, go right France. Would not that compel France to abandon the bimetallic system?—nswer. The policy of France would be not to coin, but to wait. France committed great mistake when, in 1874, after the example given by Belgium, she limited the inage of silver. This has been a great mistake. If France had continued to coin lver freely the German silver would have flowed into France, and some gold of rance would have flowed into Germany, but silver would have maintained everyhere its value relatively to gold. In limiting the mintage a difference has been eated between the value of bullion and the value of coin. (See page 37, "Nomism Legal Tender," by H. Cernuschi.)

This statement of Mr. Cernuschi is a complete answer to a subsequent statement he made in his pamphlet called "The Great Metallic Powers," and on page 21 as follows:

Why is not the coinage of silver free in France? Because were the coinage free, all the gold would emigrate, and France, deprived of gold, would no longer have a monetary medium either with England, or with Germany, or with the United States.

France therefore cannot, will not, resume the coinage of silver, unless it be at the same time resumed, firstly, by the United States, and, secondly, by England or Germany.

Very venturesome would be those who should recommend the United States of America to undertake single-handed what France will undertake only triple-handed.

This pamphlet was evidently inspired by Mr. Manton Marble, who was sent by the Government to investigate the subject in European countries in the interest of the gold monometallists, as this pamphlet seems to have reached every member of Congress with the compliments of Mr. Marble.

Inasmuch as the first statement of Mr. Cernuschi is a complete answer and set-off to the second, we here leave him and his argument thus neutralized.

France, by this unlimited coinage, at the ratio of 15½ to 1, did maintain the parity of the two metals throughout the world from 1803 to 1874, when she ceased to coin silver. This ratio of 15½ of silver to 1 of gold was the great regulator of the parity of the two metals, notwithstanding the enormous output of gold in California and Australia in 1850.

Further illustrating the operations of the French bimetallic law, we quote from Mr. Weston on the silver question, pages 118 and 119, as follows:

THE "LAW OF THE DOUBLE STANDARD."

When the double standard exists, the debtor pays gold or silver at his option, and of course pays always in the cheapest medium. When the difference becomes appreciable, the actual currency tends to be wholly of this cheapest medium, and the dearer goes to other markets as money, or is absorbed in other uses. This employment as money of the medium which is for the time being the cheapest makes a demand for it, and prevents its becoming still cheaper, or, in other words, prevents its greater depreciation, which it restrains always within reasonable limits.

We had a memorable example of that between 1850 and 1860, when the new and great supplies of gold from Australia and California came suddenly and simultaneously upon the world. The expectation of a depreciation of gold was general, and this apprehension was so great in Germany and Belgium that those countries actually demonetized gold. The depreciation did not come, and the preventing cause was the steadying effect of the double standard, and notably in France. The actual currency of that country was, in 1850, almost exclusively silver, but it changed very largely to gold when the new supplies cheapened that metal. As Professor Hansen, of the Berlin University, said in 1868:

"Europe, or rather the whole civilized world, is indebted to French law for its escape from the pertubations in the relative prices of gold and silver menaced by the enormous arrivals of gold from Australia and California. A large part of these arrivals was used in France, where gold replaced silver."

W. Stanley Jevons, an English writer of merit, estimates this absorbtion of gold in the currency of France, down to 1859, at one hundred millions sterling, or nearly $500,000,000. The statements of the gold coinage at the French mints tend to show that the estimates of Mr. Jevon are too low. During the seventeen years of the reign of Louis Philippe, ending at the commencement of the California discovery, this coinage was £8,600,000, or at an average annual rate of £500,000. From 1850 to 1858, both inclusive, this coinage was £129,587,735, or at an annual average rate of £14,343,0[illegible]. The increase beyond the rate of the preceding seventeen years is £121,000,000. T[illegible] degree in which gold had replaced silver in the French currency is reflected in t[illegible] state of the cash resources of the Bank of France, which, in March, 1876, consisted [illegible] 1,325,000,000 francs in gold and 495,000,000 francs in silver.

As is stated here, Germany and Belgium, fearing an inundation [illegible] gold, demonetized it in 1857. Notwithstanding this demonetization o[illegible]

art of other states, France continued to coin gold and silver freely, hus preserved the parity of the two metals during the enormous ıt of gold in California and Australia.

other important principle of bimetallism is here brought to view— s to say, the nation that uses both gold and silver at fixed ratios eople have the advantage of using for the time being the most lant or cheaper metal, and are not subject to those constant con- ons of the volume of money and the depressions of trade incident people using the one standard; but the main question to be dis- l here is: Would it be safe for this country to coin silver free, Eu- remaining as it is? It may be safely assumed that European coun- cannot further demonetize silver without great disaster to them- .

eed, the discussions now all point to restoring it, not to further netize it; and even in Great Britain, a single gold-standard coun- er best statesmen and wisest financiers are agitating the question ıer or not the bimetallic standard in Great Britain would not relief to her starving populations. And so it is in Germany.

ain, all the silver in Europe now in circulation as money is at a ith gold, at the ratio of fifteen and one-half to one; that is to say, orth three cents more in a dollar there than here, as compared to For this reason, no silver in European countries could come to ould we restore silver to an unlimited coinage at our ratio of six- o one; for it is not to be supposed that France, for instance, would lling to lose $18,000,000 in order to exchange a part of her silver portion of our gold, or the whole of it.

other important matter to consider in this connection is, that our ıal banking system is fast going out of existence. The payment public debt, rapidly going on, will soon wipe out the foundation national-bank circulation, and there must be something to take ıce.

November 1, 1882, the circulation of the national banks was 27,747. It is now $315,847,686, thus showing a great contraction circulation of the national banks. This contraction for the past vas $15,545,461.

question is, what is to supply the vacuum created by the retire- of the national bank notes? We must either issue legal-tender to supply it, or else provide for some other system of banking, or ive unlimited use to silver. So the question must be fairly met, this supply be a coin circulation, or shall it be credit money?

had always supposed that the gold monometallists were the pecul- vocates of hard money—honest money; that the idea of issuing legal tenders of any sort was a dangerous theory to them. If re sincere and honest in their convictions, then they should join hose who favor the restoration of silver, and demand that such circulation shall give way to the unlimited use of silver and gold.

one will pretend to say that should we restore silver to unlimited e there is a possibility of acquiring more than a sufficiency of ıetal to take the place of the three hundred and fifteen millions ional bank now rapidly disappearing. The silver certificate is st substitue for the bank note.

question may also be regarded in another aspect, and that is, ng that silver should not reach the parity of gold (what is meant arity of gold under the process of free coinage is simply that in as you give to silver an increased use as money, thus far you re-

lease or relieve so much gold), the increased use of silver appreciates the value of that metal.

The decrease in the use of gold, as a consequence in the increased use of silver, will decrease the value of gold, and while silver rises gold will fall and the two will reach a parity midway. But should silver remain 2, 3, 4, or 6 per cent. below the parity of gold, we would be in the same condition we were from '34 to '73, when we were using a gold dollar worth from 3 to 6 cents less than the silver dollar.

The great advantage claimed for gold is, that it is more convenient for large transactions than silver, more portable, and, in proportion to value, easier handled, but now that neither metal is used in large transactions, gold is piled away in bank vaults for bank paper, and in Government vaults for Government certificates. And the same may be said with regard to silver, except in minor transactions. Therefore the advantage claimed for gold is dissipated.

Silver is in circulation here. And so it is even in Great Britain and Germany, and in all other gold-standard countries. Silver is the money of the great mass of the people. It marks the transactions of all retail trade, not only in silver-standard countries, but in gold-standard countries and in double-standard countries. It is therefore the mud-sill of commerce. The business of the world rests upon these silver coins used in retail trade. It is silver that is the money of the world, and not gold.

But were it possible that some new silver mine or silver supply should be discovered by which at once six hundred millions of silver could be dumped down upon us, and our six hundred millions of gold displaced and dumped down upon European countries, it would be a great relief to both hemispheres. The result would be an increase in the monetary supply in European countries of gold, that would set the machines of industry in motion, giving the starving laborers of those countries employment, and enabling them to purchase our commodities.

We have had in times gone by a market for our great Western products of corn, wheat, and meats, and in the South of their cotton and sugar, and in the East of their manufactured goods. We want that market again.

The silver placed in circulation here would place us upon a sound metallic basis, revive industries, and put the millions of laboring men now out of employment to work, giving them bread; our revenues would swell, although the taxes would be lighter per capita upon the great masses of the people, because a greater number of them would be enabled to pay taxes. In this way our national debt would soon be a thing of the past. It may be said that those owning fixed incomes, Government bonds, State and railway mortgages, and others who have incomes from these liens would not receive the same amount of labor, or the products of labor, for a dollar they are now receiving; but what they lose in that regard they would gain by sharing in the general prosperity of the people.

Another phase of the question might be alluded to, in so far as our Government debt is concerned. By the act of 1870 that converted it into a coin debt instead of a legal tender paper debt, providing, as it stated, for payment in the standard dollar (412½ grains), or the gold dollar (25.8 grains), and, inasmuch as at that time silver had unlimited or free coinage, as well as gold, that debt is therefore bottomed on the law of the silver dollar (412½ grains), and on the further law of the free and unlimited coinage of that dollar. Consequently, it is a specific contract, so to speak, payable in the standard silver dollar, and whether

that dollar be a legal tender for any other debt or not, the people have a right to pay these bonds in silver at the rate of 412½ grains to the dollar.

Should a proposition be made to pay off these bonds in silver at the rate of 412½ grains to the dollar, not coupled with any legal-tender capacity beyond that, or in the payment of other debts, we would hear complaints and remonstrances from the bondholders. He would demand that his dollar, although a silver dollar, should be received like other money in payment of all debts. And so the people may demand that the public creditor shall be required to take the same money they have to take. Again, as to the question of the free coinage of silver sending gold out of the country, we reply that debtors have the right to demand the free coinage of silver under our Constitution and laws, and especially under the contract with our bondholders, even should we by so doing drive gold out of the country.

On the other hand, it is a violation of the public faith of the Government towards its people, and a violation of the law of 1870, providing for the payment of the bonds in the standard silver dollar, and a violation of the law which existed at that time, which gave the silver dollar unlimited coinage, now to limit or suspend its coinage in order to compel the payment of that debt in gold.

While debtors have the legal right, by restoring silver, to demonetize gold, if you please, creditors have no right to demonetize silver in order to compel payment in gold.

But we are constantly being advised to wait the concurrence of Great Britain, Germany, and France, or at least one of those countries, before we further coin silver. England, in 1816, at the instance and advice of Lord Liverpool, not at ours, adopted the single gold standard. Germany, in 1857, at the instance of the bondholding and income aristocracy, demonetized gold. This was done to protect the moneyed interests from what was called the threatened inundation of gold from the California and Australian gold mines. Again, in 1870–'71, for a similar reason, Germany turned about and demonetized silver, in anticipation of the inundation of silver from our silver mines. In demonetizing gold in 1857, then silver in 1870–'71, going back to the gold standard, Germany never took counsel of us or consulted our interests. Just the contrary. Her aim was to outlaw the wealth of our mines. To prevent her subjects from paying the taxes and annuities that supported the ruling classes in the cheap gold of California, and, again, in the cheap silver of Nevada. This was done in the face of the fact that these debts were contracted in the very metal each time outlawed.

The practice is sought to be enforced here by the same interests among us. But Germany, unlike us, has no bimetallic constitution; she did have a ruling class.

France never has been hostile to silver. France has about $600,000,000 of silver in circulation to-day, twice the amount we have, yet wealth, population, territory, and all essential demands for money are vastly on our side.

Our fathers, when they adopted a constitutional standard of value based on gold and silver; when they gave free or unlimited coinage to both metals, in 1792 made the silver dollar of to-day the unit of value, the money of account, never entertained the thought of asking the concurrence of other nations. It was too soon after the Declaration of Independence for that. Our mints were always open to the free and unlimited coinage of both gold and silver for eighty-one years. During all this time our public and corporate debts were insignificant. Now

our bonded debts are fabulous. They are held by a few who seek to speculate in them by monetary tactics and financial legislation to the end that the value of this particular property shall not only be maintained, but constantly increased—in fact, doubled.

Any one who cannot see that our public debts are a menace to our prosperity, if not to our free institutions, is blind. Not a dollar should be held in the Treasury that can be applied to the payment of these debts.

At the expense of being tedious by repeating, we beg again to refer to the French bimetallic law, and thus give an historical instance of the power of unlimited coinage to tie the metals together and maintain their parity at a fixed ratio. France in 1803 adopted the ratio of 15½ of silver to 1 of gold. France opened her mint to the unlimited coinage of both metals at this ratio. Both were made a full legal tender for all debts public and private. From 1803 to 1874, over seventy years, France continued the unlimited coinage of the metals gold and silver. During the whole of this period, and up to the day she closed her mints against the silver of her enemy, Germany, gold and silver were at a parity throughout the world at the French ratio of 15½ to 1. Notwithstanding the fabulous output of gold in California and Australia, coupled with the German demonetization of gold in 1857, before referred to, France continued to coin free, and this prevented the decline of gold feared by Germany. A few French statesmen and financiers were eager for the suspension of gold coinage by France. Among them M. Chevalier, who gave as to gold the same direful prophecies that our chevaliers now predict for the fate of silver.

The French bimetallic law, however, falsified and set at rest all these false prophets and predictions. France refused to demonetize gold in 1857. The victory at Sedan had not then happened. It had happened in 1874. France saw an opportunity for retaliation by closing her mints to German silver—this to hamper and probably prevent the German monetary revolution. It had the desired effect. Germany has been unable to exchange her silver for gold except at a sacrifice she cannot make. France will not let her have her gold. Germany cannot get it elsewhere. The consequence is Germany is gold monometallic only in name. She is in practice bimetallic to-day, having over $200,000,000 of silver in circulation, alongside of her $350,000,000 of gold. Had France continued the coinage of silver she would probably have most of the $200,000,000 of German silver and Germany a like amount of French gold, but both would have been at par at the ratio of the French 15½. Nobody would have been hurt, for France could spare $200,000,000 of her gold and then have $600,000,000 left—more than England or the United States has to-day—France now having $800,000,000 of the yellow metal. Had France forgotten Sedan and continued silver coinage as she continued gold coinage in 1857, there would be no silver question to solve. The two metals would have remained at a parity. Are we not able to take the place of France in history by coining both metals free?

Let us compare the power of the two countries. France in territory is not as large as the State of Texas with a population of only 37,000,000. We have a territory of over 3,000,000 square miles, or over 2,000,000,000 acres of land, and a population of not less than 55,000,000 of busy people and increasing at the rate of more than 1,000,000 annually. No limit can be fixed to the numbers our fertile continent will receive and maintain.

The most timid must see that we can dictate the value of silver and gold. We can, at our ratio of 16 to 1—*i. e.*, 16 ounces of silver to be

equal in value to one of gold—maintain that practical parity by giving both metals equality at our mints.

Undo the wrong of 1873 by restoring silver to unlimited coinage. The example of France warrants us in doing it. Justice to debtors demands it.

The money will be eagerly absorbed by our industrial classes. The gold certificate and silver certificate now circulating side by side at par will continue to do so.

Should the silver certificate displace the bank note, so be it.

The national debt ought to go, and with it, if necessary, the bank note.

Let silver and silver certificates take the place of national bonds and bank notes. We will thus substitute good money for bad, and rid ourselves of an interest-bearing debt—a debt over which all this controversy arises; a debt, the manipulation of which has cost us half a billion of dollars. It is at the bottom of all our financial tricks and monetary legerdemain; a constant source of corrupt legislation and downright swindling. With this debt, and the banks on top of it, out of the way, the money of the Constitution will return to bless us.

The mints of our Government are open at all times to the free and unlimited coinage of gold. The miners and the owners of gold bullion have the right to take their gold to the mints and demand its coinage into such pieces as they prefer and the law authorizes; or if they do not prefer to wait for its coinage, they are paid for their gold immediately in cash, rated at the amount it will coin. The mint, therefore, affords a steady, constant, and unvarying market for all the gold that comes.

The gold miner does not produce a commodity to be hauled upon the markets and sold to the highest bidder to run the risks of bulls and bears, the depressions of hard times and falling prices. He extracts dollars and cents, because he can at all times have it coined into money. This money he himself puts in circulation by such investments as he may see proper to make. Not so with the silver miner or owner of silver bullion. Silver is prohibited from free access to our mints. The free coinage of silver that existed from 1792 till 1873 was prohibited practically by the law of the latter year. By that law the coinage of full legal-tender silver was suspended. The subsequent law of 1878 authorizing the coinage of the standard silver dollars limited and restricted the coinage of such dollars. Herein was its defect—a defect imposed upon the friends of silver as a compromise in order to secure any law at all upon the subject.

The law of 1878 authorized the Secretary of the Treasury to purchase not less than $2,000,000 nor more than $4,000,000 worth of silver bullion monthly, to be coined as purchased into standard dollars. Under this law the Secretary goes into the market to purchase silver at its lowest rates. The Government thus becomes the depreciator or bearer of silver. This makes silver bullion mere commodity, and all that part of the commodity that must wait its turn at the mint is necessarily discounted. Its rate of discount must be in proportion to the time it must probably wait before it can go to the mint. Like all other commodities that fail to find a constant and unvarying price fixed either by law or contract, silver bullion must necessarily fluctuate in value. It must be borne in mind that we refer to the uncoined bullion, for the coined standard silver dollar is now and always has been at a par with gold, because it has always been a legal tender to the same extent as gold. If the mints were open to silver the same as gold, so that all comers with silver could have it coined into legal-tender money, or, if preferred,

could demand and receive legal-tender money for it, then, of course, there could be no discount or depreciation of silver bullion below the price paid for it at the mint. All the silver thus coined or exchanged by the owner would be put in circulation by the miner or owner of the bullion the same as gold, and would not be, as it is now, subject to the adverse whims of the Treasury officials, who heretofore have tried how to keep it out of circulation.

This brings us logically to the point that the coinage of silver must be free and unlimited, or placed upon the same footing as gold, in order to preserve the parity or equality in value of the two precious metals.

The gold craze has, however, reached that stage that its advocates tell us it is not safe for us to coin silver free, because, as they allege, it is not the standard of money among a sufficient number of nations for us to adopt it.

What are the facts? We give here tables taken from the United States silver commission report of 1877, showing the standard of money and population of the different countries, as follows:

SILVER-STANDARD COUNTRIES.

| | Population. |
|---|---|
| Russia | 76,000,000 |
| Austria | 36,000,000 |
| Egypt | 4,500,000 |
| Mexico | 8,000,000 |
| Central America | 2,600,000 |
| Ecuador | 1,300,000 |
| Peru | 3,400,000 |
| China | 400,000,000 |
| British India | 237,144,456 |
| Total | 768,944,456 |

DOUBLE-STANDARD COUNTRIES.

| | |
|---|---|
| Greece | 1,400,000 |
| Roumania | 4,000,000 |
| Colombia | 2,900,000 |
| Venezuela | 1,600,000 |
| Chili | 1,900,000 |
| Uruguay | 400,000 |
| Paraguay | 1,200,000 |
| Japan | 33,000,000 |
| Holland | 3,700,000 |
| France | 36,200,000 |
| Belgium | 5,100,000 |
| Switzerland | 2,700,000 |
| Italy | 26,800,000 |
| Spain | 16,400,000 |
| United States | 50,000,000 |
| Total | 187,300,000 |

GOLD-STANDARD COUNTRIES.

| | |
|---|---|
| Great Britain | 32,000,000 |
| Canada, Cape of Good Hope, and Australian colonies | 7,000,000 |
| Germany | 42,000,000 |
| Norway | 1,700,000 |
| Sweden | 4,300,000 |

These estimates show that over 700,000,000 people have adopted silver as the sole standard of money, and over 180,000,000 have the double standard, gold and silver, thus constituting a total of more than 900,000,000 who use silver as a standard money. Only 92,800,000 have the single gold standard.

We are the producers of silver. Nearly one-half the world's production of silver comes from our mines. The greater value we give to it at home the more it will be worth abroad and the more value to us our mines become. But the great benefit to be derived from the unlimited coinage or use of silver as a money is in bringing it into competition with gold, so as to lower the value of gold, or, what is the same thing, raising the value and price of all labor and the products of labor, and thus prevent that fall in prices and depression in trade consequent upon measuring all values with the single gold standard, as is now being attempted, the results of which are being felt everywhere. At least four-fifths of the fifty-five or sixty millions of American people desire silver to be restored to its constitutional rights of free coinage. The only classes seriously opposing it are the bondholders or fixed-income class, who scheme for the enhancement of their special property. Bonds, mortgages, and all fixed securities have the amount or value specified in so many dollars and cents. It is easy to increase their real value by increasing the value of the dollars and cents in which they are to be paid. To demonetize silver and require payment in gold only, while it may not change the amount called for in the bond, does double its value by doubling the value of the money in which the bond is to be paid, hence this class, with some honorable exceptions, are opposed to silver. We also have the national banks.

Their interests against silver is tenfold. First, they are required to hold bonds as security for their circulation; they have the bondholders' interest. Again, they seek to control absolutely the volume of money; that they cannot do if silver is permitted to fill the channels of circulation.

## INCREASING THE BULLION IN THE DOLLAR.

Some of those who favor the bimetallic standard claim that we should change the ratio so as to coin silver at its bullion value. This ignores the fact that silver is depreciated by the Government. Silver was demonetized. That act depreciated silver. It is not coined now except on Government account and in limited amounts. This coinage is utterly impotent to restore silver. What is demanded is that the Government, instead of depreciating silver by its laws, shall throw the weight of its wealth and power in the scale in favor of silver by giving it unlimited use as money. In doing this the Government will simply have righted a wrong. After this has been done, if silver is still below gold to such a degree as to disturb the equity of contracts, there might be a reason for changing the ratio. But it is not justice to the debtor class that his Government should by its laws first depreciate silver and then take advantage of its own wrong by coining it at the ratio of this depreciation. Since 1878 we have been coining full legal-tender silver at the ratio of 16 to 1. All existing debts and contracts are based upon that relation, and especially those incurred since we commenced coining silver.

But this change of ratio may require a reduction of the bullion in the gold dollar, as was done in 1873.

We have always measured gold by silver, and in 1837 reduced the value of the gold dollar. The strange part of the present controversy is, that those who talk mostly of increasing the bullion in the silver dollar ignore the fact that it is gold that has appreciated; that the bullion in the silver dollar will buy as much of commodities now as at any time during the last quarter of a century.

Why not, then, be just to debtors, and decrease the value of the gold

dollar, if any change is required to keep the two metals in concurrent circulation.

We here present a table showing that the proposition to increase the bullion in the silver dollar so as to make it equal to the bullion in the gold dollar will add to the burden of debtors over $2,438,000,000.

This is shown in the following table, by adding 20 cents to the dollar on the total debt ascertained and estimated, viz:

*Statement of the national, State, county, municipal, and railroad debt in the United States, and an estimate of the individual real and personal mortgage debt.*

| | |
|---|---|
| United States, 1885 | $1,438,542,995 |
| Aggregate State, funded and unfunded, 1885 | 262,175,245 |
| Territorial, 1880 | 179,178 |
| County, 1880 | 123,877,668 |
| Municipal | 698,270,199 |
| Railroad, funded, 1884 | 3,669,115,772 |
| Individual mortgages (estimated) | 6,000,000,000 |
| Total | 12,192,161,057 |
| 20 per cent. increase | 2,438,432,211 |

This statement is taken from Mr. Spofford's Almanac, except as to the estimated individual debts, which is gathered from the most reliable sources that can be had, and which is too low rather than too high, and the enormous amount of debt not in the form of liens is wholly left out. Sufficient, however, is stated to show the very great injustice involved in the proposition.

Aside from these considerations, the world's ratio now is fifteen and a half to one, or a value given to silver of three cents to the dollar more than ours.

## THE CONSUMPTION OF GOLD AND SILVER IN THE ARTS.

Mr. Burchard, our former Director of the Mint, made a very able and exhaustive research and report upon this subject. In his annual report for the year 1881 he says:

> From a review of the information published in this and preceding reports, and other authorities, I estimate, including the annual consumption in the United States of $11,000,000 of gold and $6,000,000 of silver, the annual consumption of the world in ornamentation, manufactures, and the arts is at least $75,000,000 gold and $35,000,000 of silver.

The greater the wealth of the world, the greater will be the demand for gold and silver in ornamentation and in manufactures, and the arts. It may therefore be safely assumed that the consumption will greatly increase from year to year. Indeed, some authorities now estimate the consumption of gold in this way to equal the annual supply, thus leaving nothing to replenish a circulation demanded by the great increase in population and business volume constantly going on. Added to this, the startling fact also appears, that more than one-fourth of the world's production of silver is thus consumed. The last annual report of the Director of the Mint gives the production of gold in the world as $95,292,369, and of silver at $115,147,878.

On this showing it is quite apparent that all fears of the country being inundated with silver are wholly unfounded. The Old World must in the future absorb silver to keep up its monetary supply. There is no gold with which to do it. We also must give a larger use to silver if we expect to continue prices even at the present low levels. We have

nothing else to take the place of the rapidly disappearing three hundred and fifteen millions of national-bank paper.

### LEGAL TENDER.

The most important function of money in modern trade and commerce is its legal-tender power.

If gold only is legal tender then debtors must depend upon this one metal to pay debts. All the silver and other products of Christendom, except gold, would not pay a dollar of debt unless they could be exchanged for gold. Should the world come to the gold unit as the sole legal-tender, that metal might become so valuable, as compared with other commodities, and so scarce in proportion to the enormous demands made upon it, that the money barons of this and other countries, controlling a few hundred millions of gold, might control the destinies of nations and absolutely dominate the welfare of mankind.

Believing that the unlimited coinage of silver is the logical solution of the silver question, and since gold and silver seem to have been the constitutional money intended for the use of the States in adjusting their legal-tender laws, and for other reasons herein stated, and yet others that might be urged for restoring silver to where it was before it was demonetized by the act of 1873, we recommend the passage of House bill No. 5690, which aims at that result. Without indorsing all the statements made in the argument of Mr. Dexter A. Hawkins before our committee, we append the same hereto as containing valuable statistics and data pertaining to the subject herein discussed.

R. P. BLAND,
SAMUEL W. T. LANHAM,
WILLIAM D. BYNUM,
*Of the Minority.*

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# APPENDIX.

## *SILVER COINAGE.*

### WHAT IS FOR THE INTEREST OF THIS COUNTRY.

Silver and gold have been money since commerce began. It is safe to assume that they will continue to be money so long as commerce exists.

### WHAT METALS NATIONS USE.

Of the organized peoples on the globe those having a population altogether of 800,000,000 use only silver money as unlimited legal tender; those having a population of 200,000,000 use as unlimited legal tender both silver money and gold money; while those having altogether a population of about 100,000,000 use only gold money as unlimited legel tender; but even these last are unable to carry on their industries without a large amount of silver of limited legal tender, with which in fact the retail business is done; and this in amount is necessarily larger than all the domestic wholesale business.

### RATIO OF VALUE BETWEEN THE TWO METALS.

In 1785 France fixed the ratio of the relative value, as money, between gold and silver, at one pound weight of pure gold to fifteen and a half pounds weight of pure silver; all Europe soon adopted this ratio and has substantially adhered to it ever since.

We adopted in 1792 in establishing a mint, the ratio one to fifteen, and finding that wrong we in 1834 changed to one to sixteen; that is the ratio here now. Under the first ratio the gold was exported to pay foreign debts; under the second, up to 1873, the silver was.

### MONETARY UNIT.

When the mint was established and began to coin silver and gold, Congress enacted (Chap. XII, Sec. 9) that the silver dollar should be the monetary unit of this country. It called this coin "*Dollars* or *units*" and valued all other coins in these *silver dollar* "*units*." No gold dollar was authorized for fifty-seven years (1849); and until there was a gold dollar it was not practicable to have a gold dollar unit. The eagle, for example, was to be of the value of ten of these silver dollar "*units*," and fractions of the eagle in proportion.

This silver dollar unit has never been changed a particle in the amount of pure silver it contains. The monetary unit to be an honest unit should not change. The silver dollar remained the *sole monetary unit* until, without the knowledge of the people or even of the President who signed the act, it was in 1873 demonetized. Then for the first time in eighty-one years it ceased to be our *sole monetary unit*.

The parties who prepared the law demonetizing the silver dollar evidently were conscious of destroying our *sole monetary unit*, and of the necessity of enacting some other and new monetary unit to take its place; hence they inserted in section 14 of the act demonetizing the silver dollar, that the gold dollar "*shall be the unit of value*."

Had the gold dollar, as the honorable Secretary of the Treasury mistakingly intimates in his last Annual Report, p. xxv, been up to the act of 1873, equally with the silver dollar, our monetary unit, there would have been, on demonetizing the silver dollar, no need of enacting (L. 1872, chap. 131, sec. 14) that the gold dollar "*shall be the unit of value;*" for if there had been two monetary units when Congress destroyed one of these two units, the other unit would still remain. But if only one existed, and Congress destroyed that, there was a necessity of immediately establishing a new unit, and Congress did so.

### VARIATIONS IN WEIGHT OF GOLD IN OUR GOLD COINS.

It is well for the good name of the country that Congress did not, before it demonetized silver, give to gold the character of monetary unit. The unit of money should not in weight of pure metal be a variable quantity. The gold dollar varied three times in its quantity of pure metal in the first forty-five years of its theoretical existence. I say "theoretical" for the reason that it had no actual existence till 1849. From 1792 to 1834 the gold dollar was supposed to contain 24.75 grains of pure gold; from 1834 to 1837 it was supposed to have 23.20 grains; and from 1837 up to the time of the first coinage of the gold dollar, 1849, it was supposed to have 23.22 grains of pure gold. In 1849, for the first time, it came into actual existence, and with 23.22 grains of pure gold in it; and it has continued ever since that date when coined to contain that amount.

### ERROR IN REPORT OF SECRETARY OF THE TREASURY.

The claim that from 1792 to 1873 the monetary "unit was embodied by law in either metal" (Annual Report Secretary of Treasury, 1885, p. xxv), rests simply upon the two facts of *unlimited legal tender* and *legal equivalence of value* of gold to silver at certain weights, though one of the metals, gold, changed in weight three times in that period, while silver has not varied at all. Those two facts in law fortunately are not sufficient to embody in a metal the character of monetary unit. It requires a statute to confer that character, and until 1873 such a statute as to gold did not exist

If *legal tender* and *legal equivalence* of one metal to another one which is the monetary unit conferred that character upon the former, then the silver dollar when remonetized in 1878, having both these characters (L. 1878, chapter 20, section 1), would have become the monetary unit equally with the gold dollar. When it was remonetized its former character of monetary unit should by clear terms of the statute have been restored to it, but it was not.

### FLUCTUATIONS IN SUPPLY OF GOLD.

Stability in a metal is essential to make it a safe unit of value. Gold, from the changeable quantity of its production at different periods, is unsuited for that purpose.

From 1520 to 1840, three hundred and twenty years, the weight of the gold produced in the world varied from 2 per cent. to 7 per cent. of the weight of the gold

ver together produced. But in 1850 the California mines, and soon after the lian mines, began to pour out gold in immense quantities, and from 1850 to ive years, the weight of gold produced was 18 per cent.; from 1855 to 1860, ars, it was 19 per cent.; from 1860 to 1865, five years, it was 14 per cent.; from 1870, five years, it was 13 per cent., by weight, of the annual joint production two metals.

r 1870 the weight of the production of gold fell off to 8 per cent. Silver is steadier. Take the twenty years from 1850 to 1870, the world's annual output er was only twice as great as its annual output in the ten years from 1810 to while for the former period the annual output of gold was more than *sixteen* vhat it was for the latter period.

etal so variable in quantity as gold is unsuited to be the unit of value in com- It exposes business to a succession of ruinous inflations and contractions, the long run, as in England, makes the poor poorer and the rich richer. It uces an element of chance or gambling into business.

### ENORMOUS OUTPUT OF GOLD.

o 1875 our country has produced 4,457,420 pounds weight avoirdupois of gold, ustralia 3,986,400. These two countries together had in forty years added to orld's stock of gold 8,443,820 pounds weight avoirdupois, or more than 37 per of the world's production for the last four hundred years.

United States alone have in the last forty years produced of gold $1,710,000,000, otwithstanding the great hue and cry about our flood of silver, our output of in that period only $710,000,000.

world's greatest annual output of silver was for the twenty years ending with It averaged 1,933,932 pounds weight avoirdupois, which, at our ratio of value, ., was equivalent to an annual output of 120,871 pounds weight of gold. But tweuty years ending with 1870, the period of the greatest production of gold, nual output of that metal averaged 429,327 pounds weight avoirdupois, being enty years more than three and a half times in value what it had been of silver y such length of time for four centuries.

### TWENTY YEARS AGO CAPITALISTS WISHED TO DEMONETIZE GOLD.

l the world been monometallic with gold alone as the monetary unit, this sudden normous increase in the amount of gold would have wrought disaster to the creditor interest. Fortunately, except England, it was bimetallic, and yet arge and sudden influx of gold frightened the creditor interests in Europe to an extent that they began to demand the demonetization of gold. Holland, m, and Portugal demonetized most of their gold coinage or ceased to coin; and prohibited the export of silver lest, if gold were demonetized, she might be ithout metallic money. France, always conservative in monetary matters, in- of yielding, as invited, to the gold panic, appointed a commission to inquire into atter. Finally, in 1865, the Latin Union was formed that now comprises France, m, Switzerland, Italy, and Greece. This, having a population of over 74,000,000 ercial people in the heart of Europe, acted as a balance-wheel or governor to uropean monetary machine in the two metals.

### THE STOCK OF GOLD AND SILVER IN THE WORLD.

810, it is estimated by experts, there was forty-five times the weight of silver as money that there was of gold. That is, the silver money then at our ratio of l was nearly three times the value of the gold money.

ing the last estimates of the statisticians and bringing them down to this year, ding the output of the mines to that date, the amount of money in the world of vo metals now is respectively as follows:

| | |
|---|---|
| ..... | $3,513,000,000 |
| ..... | 3,750,000,000 |

s gives about 48 per cent of gold and 52 per cent. of silver as the world's ratio.

### WHAT IS THE RATIO OF DIFFERENT COUNTRIES?

e two metals were relatively evenly distributed, each nation would have nearly ch money of one metal as of the other.

e Germany attempted to demonetize silver, nations containing about one- h of the organized population of the globe use only gold as unlimited legal

tender, while twice as many, those comprising one-sixth of the population of world, use both gold and silver as unlimited legal tender, and the international c mercial relations of these two classes are intimate. Our country for five years induced to demonetize silver, but now belongs to the bimetallic class.

From all these circumstances combined, notwithstanding two-thirds of the po lation of the globe use only silver as money, it has come about that while the u versal ratio of the two kinds of money in use would be 52 per cent. of silver t per cent. of gold, yet in the above countries that use both there is now a higher centage than that of gold money and lower percentage of silver money.

France, the head of Latin Union, has in round numbers—

| | |
|---|---|
| Gold | $900,000, |
| Silver | 600,000, |
| Total gold and silver coin | 1,500,000, |

That is, 60 per cent. gold and 40 per cent. silver.

Germany, since she forced a war indemnity of $1,000,000,000 in gold or its equi lent from France and demonetized silver, is reckoned as on a monometallic gold ba but yet she is practically still bimetallic, for the logic of business is stronger t Bismarck or the statutes; and her money now consists, not of gold alone, but of g $342,000,000, and silver, half of which is full legal tender, $214,000,000; total, o $556,000,000; or 61 per cent. gold and 39 per cent. silver. Her population is lar than France by seven millions, yet she has but a little more than one-third as m money.

The German people have suffered so great financial disasters in the attempt change from bimetallicism to gold that they are now demanding the full restora of silver. *A bill in that direction passed the Reichstag only last week.*

England, with a population nearly as large as France, has for sixty-five years b on a gold basis; and silver is legal tender only for debts not exceeding $10; but has all the time been obliged to make constant use of the demonetized metal. money consists of, gold $587,000,000, and of silver $93,000,000; total, only $680,000, or not half, as much money as France, 86½ per cent. of which is gold and 13½ per c of silver. But though kept at this starvation limit of silver by the Government fusing to coin more, yet this 13½ per cent. of silver does most of the work—that is retail business of that country.

Through her monometallism she has repeatedly lost gold to such an extent that bank has been unable to replenish its stock of gold promptly from her own pe and has sent to the bank of bimetallic France for aid, and has received it.

### WHAT IS THE PROPORTION NOW IN THIS COUNTRY?

If to the amounts of the two kinds of money in this country June 30, 1885, as ported by the Director of the Mint, we add the coinage since, and also add the b ion at the mints awaiting coinage, we find that the gold in this country Februa was $623,000,000, and the silver, including fractional coinage, was $300,000,000; t for 60,000,000 people, $923,000,000; say, 68 per cent. of gold and 32 per cent. of sil

### WHAT PROPORTION IS FOR THE INTEREST OF THIS COUNTRY?

Now, assuming that we do not increase our stock of gold a dollar, so that it rem at $623,000,000, yet to bring our proportion of silver to gold up to the world's r of 52 of silver to 48 of gold, we should have now, instead of $300,000,000 of sil $675,000,000. In other words, we require a further coinage of silver to the ext of $375,000,000; then our proportion of the two metals would be the average of world. Nations to-day are so intimately connected through commerce, steam, electricity, that in the long run the world's proportion, instead of a private, pecul and abnormal proportion, is the easiest to maintain, and the best.

### OUR POSITION REQUIRES THE WORLD'S RATIO.

Our geographical situation makes the world's ratio greatly to our interest. To east of us are England, Germany, and the Scandinavian countries, about 100,000, of people, who are all trying to screw themselve down to a gold basis; and the La Union and the rest of Europe, say 200,000,000, that use both metals. Our chief ports to these two classes are food and raw materials, which exhaust our country enrich them. A small part of these, when manufactured and sent back to us, pa the purchase price of the whole, and the remainder enables them, at great profit supply the rest of the world with goods. If we manufactured these raw mater

ourselves, before exportation, it would give employment to millions of citizens and utilize our unlimited supply of coal and water-power now lying idle, and create for us immense wealth.

To the south of us on this continent, and to the west of us in Asia, are 800,000,000 of people who use only silver and who are the chief market for manufactures, and the principal source of lasting profit in foreign trade. Our interest lies in cultivating and developing commerce with them and bringing their trade to our country instead of letting it go to Europe. To do that successfully we must have silver.

A balance of trade against us in Europe calls for gold; while if it arises from transactions with the 800,000,000 of silver-using people it will call only for silver.

This fortunate geographical position makes it clear that it is for the interest of this country to attain to and preserve that proportion between the two kinds of money which is the average of the world, and for that reason will be permanent. That will enable us to deal easily, safely, and largely with all the above three classes of nations. Nature has given us within our own borders mines of the two metals that will soon, if we have wisdom enough to coin their products, put us in a position to control exchanges, and make New York, and not London or Paris, the money center of the world.

If the present silver law was executed up to the maximum limit fixed by Congress, in a few years we should have $2,000,000,000 of coin, silver and gold. This would give us nearly the amount per capita as the Republic of France.

AMOUNT OF MONEY REQUIRED IN THIS COUNTRY.

| | |
|---|---|
| We have now of gold and silver | $923,000,000 |
| United States notes | 346,000,000 |
| National-bank notes | 318,000,000 |
| Fractional currency, about | 7,000,000 |
| Total money for 60,000,000 people | 1,594,000,000 |

or $26 per capita. This is none too much. As the population and business increase we shall need more, not less. France, a much more compact country than ours, and the soundest country in the world financially, and a Republic, has in addition to its $900,000,000 of gold and $600,000,000 of silver between $500,000,000 and $600,000,000 of paper, making a total of $2,000,000,000. This is $52 per capita of her population, or twice as much as we have. She does not find that too large a sum. We should not if we had it.

We certainly, then, have not too much money now; and to avoid disaster we must take care that its volume is not reduced.

HOW TO KEEP UP THE SUPPLY OF GOOD MONEY.

With the payment of our debt the national-bank notes, based upon Government bonds, are steadily disappearing. Their place must be supplied by coin or its equivalent; otherwise a contraction of about forty millions a year will follow, and a consequent depression of business and absorption of property by capitalists.

The output of our mines will easily furnish the mints the silver to do this; and it costs the people nothing to buy and pay for this silver, because it may be done in silver coin or coin certificates. In this way, in a few years, our three hundred and eighteen millions of paper money, based on nothing but a promise, and a promise, too, that within twenty-five years last past has been at one time worth only 40 cents silver to the dollar, will become three hundred and eighteen millions of silver dollars, whose weight has never varied in the ninety-four years of their existence, or certificates for coin held in trust by the Government to redeem these certificates at the pleasure of the holder.

The domestic trade of the country, estimated at $25,000,000,000, per year, is now done, and from the habits of our people always will be done, chiefly with paper representing money. These certificates, representing coin in the Treasury, are the best kind of paper money ever devised by man.

So long as the Government buys the silver at the market price and coins it into standard dollars, these dollars within this country necessarily under the present law will have the same purchasing power and paying power that the gold dollar has.

It is the duty of Congress to provide for and secure the business and prosperity of this country and not of foreign countries, and to take care of the $25,000,000,000 of home trade.

Our foreign trade, both imports and exports, is only about 15 per cent. of our domestic trade. Our exports for the last twelve years have paid for our imports and left an average credit balance in our favor of more than $100,000,000 per year. Unless the business of the country is disturbed by legislation in the interest, not of our-

selves, but of foreign countries, this credit balance will continue. But if it is disturbed, and a debit balance is produced, this debt will have to be paid to the gold-using countries with gold and to the silver countries with silver; hence the necessity of keeping both in quantities so large that a draft upon either need not disturb our financial position. The coining of our whole available product of both silver and gold will enable us to do this.

The theory that the possession of a large amount of full legal-tender silver is going to make it more difficult, as the gold monometallists say, for us to pay abroad an adverse balance of trade has no foundation in fact. It is pure fiction. Logically it is like assuming that a large corn crop disables us from exporting wheat when there is foreign demand for wheat; or that large wheat crops hinder the export of corn whenever other nations require that cereal. The truth is, the more we have of either the greater is the amount we can pay out or export of the other without inconvenience. If we had only gold, as desired by the enemies of silver coinage, and that departed to pay debts to gold-using nations, we should have no coin left as a basis of our paper money, and that would vary as heretofore from par to 60 per cent. discount, but if we hold both, the temporary departure of one will only bring the other for the time being more into use, and will support our paper and keep our industries active.

### COINING SILVER DOES NOT EXPEL GOLD.

Ever since it was discovered that silver in 1873 was demonetized, we have heard steadily from gentlemen who think nothing in finance is right unless it is approved in London, that the restoration of silver to the place that up to 1873 it had always held would be the ruin of this country. The ablest opponent of silver in New York, the late Isaac Sherman, declared the day that the law passed that the act of 1878, restoring silver, would drive out our gold; would precipitate upon us all the United States bonds held in Europe, and would disarrange and prostrate our industries. When told that all monetary history indicated that it would have the opposite effect, viz, that it would bring gold here by increasing our prosperity; that it would help the nation so much by stimulating business that no foreigner would send home our bonds for sale or payment till he was compelled, Mr. Sherman was quite ready to stake his reputation as a financier upon the result. Well, history and the result are before us.

Germany, in 1873, as soon as she had secured her war indemnity, $1,000,000,000 gold, from France, pursuing the "blood and iron" policy of Bismarck, thought she saw an opportunity to crush France again, financially, as completely as she had already done it on the field of battle by simply discrediting silver. She had emptied France of gold, and now by demonetizing silver she expected to destroy the value of that, which was all the money that was left in France, and so leave her without money except irredeemable bank notes. It was done. The silver of Germany was called in, demonetized, and sold to England in such quantities that in 1876 its price had fallen 20 per cent. The German mints were worked to their full capacity coining the French gold into German marks to supply the place of the demonetized silver. No country ever had so favorable an opportunity as Germany to change from bimetallism to gold. She had reduced the metallic reserve of the Bank of France to $79,000,000, and she held French indemnity obligations falling due that bid fair, she thought, to prevent any gold from accumulating in Paris for many years.

The German gold theorists were in high spirits. But, as afterwards in the case of their New York brother, they found that everything went the other way. Silver, which really does the work, being discredited, the German industries from one end of the Empire to the other were thrown into confusion; millions of subjects were, from time to time, left in idleness, and it took but a short time for Germany, by beggaring her own industries, to lose more than the thousand millions of gold she had taken from France.

The gold as fast as she coined it disappeared to a great extent from the realm and went back to France. Soon the Bank of France was found to hold $400,000,000 of coin, half of which was gold, and much of this gold the new German coins. Finally, to save herself from ruin, Germany has had to stop the sale of silver, and retain in circulation more than a hundred million dollars of full legal-tender silver, besides as much more of the new coinage not full legal tender. To gold theorists this course of things was all wrong, but to the plain man of affairs all right.

After paying the indemnity, France had her silver left. It was by law full legal tender within the Republic, and in fact within the whole Latin Union. It does all the industrial work, carries on the retail trade, keeps up both production and consumption. Frenchmen were all busy; Germans were idle. The foreign demonetization of silver did not affect in the least its domestic value and use as money, and France had $300,000,000 of it. The result is that Germany, with 7,000,000 more population than France, has now of her thousand millions of gold obtained from France,

together with her whole domestic stock, only $342,000,000 left, and only $214,000,000 of silver—total, $556,000,000—while France has $900,000,000 of gold and $600,000,000 of silver; total, $1,500,000,000. The possession of full legal-tender silver helped France to recover back in a short time her whole stock of gold.

Similar results in our country followed the restoration of silver. February 28, 1878, when the silver act became law, the total amount of gold coin and bullion awaiting coinage then in this country was only $228,716,114.

This, according to the gold theorists, should have immediately begun to leave us. Instead of that it has steadily increased, until now, according to the last calculation, we have $626,426,641 of gold, or an increase of about $400,000,000 since 1878. Our Government bonds did not come back except when they were called for payment, and interest was stopped so as to compel their presentation. Our industries were not disarranged or prostrated, but became unusually active and prosperous. In short, as the late Isaac Sherman said to me before he died, everything has happened that to the mind of a goldite should not; and what should, has not. Everything in the business world goes just the opposite way from what the opponents of silver teach. Their theories from the very nature of things are wrong. They, as it were, want water to run up hill, notwithstanding ever since creation it has run the other way.

### EFFECT OF STOPPING SILVER COINAGE.

The enemies of silver, had they the power, would demonetize it now, as they secretly did in 1873. All their arguments at bottom come to that. They cannot accomplish this at once as they did in 1873, because the eyes of the people are now open; hence they modestly demand only the stoppage of its coinage. But their model of perfection and wisdom in finance is England; therefore, what they are aiming at is plain. It is to degrade silver, as England has, to a subsidiary coin, and limit the quantity to what we now have.

Half of the coin money in the world is silver. Half of ours ought to be silver. Demonetize it, limit it to what we now have, or degrade it to a token coin, and half the unlimited legal-tender coin money, the measure of value in the world, ceases to be money, but becomes merchandise. The other half has double duty to perform—each dollar has to buy twice as much as now—and prices, from the very nature of things and the necessities of the situation, will be squeezed down, as now in England, until they meet the gold dollar. The debtor will be forced to give twice as much property or labor as now to pay his creditor. No one knows this better than the capitalists, who alone are carrying on this war against silver. Our prosperity would cease, as Germany's did, while we were making the transition. Millions of people would be thrown out of employment; industries would either change hands or be broken up. The property, as in England, would be absorbed by the few, while the many would become mere tenants or day laborers.

In 1876 silver, demonetized by Germany three years before, had fallen as bullion 20 per cent. If we now demonetize it or stop the coinage, which for the future amounts to the same thing, it being one of our great products, we shall throw upon the London market forty millions per year that we ought to coin. Its price as bullion will go down 20 per cent. more. England will get it at 60 per cent., instead of paying 100 per cent. She will ship it to her mints in India, where 250,000,000 of people under her rule use only silver for money. She will there coin it at par into rupees and sycee, buy with it from ryots, who work for 8 cents a day, her whole supply of wheat, which she formerly took of us, and land it at Liverpool and London at prices that would bankrupt and starve our American farmers. Her import of wheat from India has in eight years risen 800 per cent., until it is already in amount one-half of the wheat and flour she takes from us.

An unlimited supply to her from India is only a question of railroads and irrigating canals. Six millions sterling, or $30,000,000, are appropriated there this year for these. She proposes to continue these works till the wheat and cotton lands of India are reached and brought under cultivation. So long as we furnish her with cheap silver she will push this business with the utmost vigor and profit; until, in a few years, if the opponents of silver succeed, our wheat export to England will cease, and English merchants will lay down in New York wheat from India at 75 cents a bushel. Eight years ago she imported from India 4,000,000 bushels; in 1884, over 30,000,000, and last year, 1885, from simply two ports, Kurrachi and Bombay, 33,284,012 bushels, which was an increase in one year from these two ports alone of 11,859,982 bushels.

England has in India a country as large as ours from the Rocky Mountains to the coast of Maine and from the Lakes to the Gulf, with three great river drainage areas like that of the Mississippi, extending from the Himalaya Mountains to the Indian Ocean, with every kind of climate from perpetual snow to torrid heat, and every variety of soil, and 250,000,000 of cheap laborers all using silver alone for money. We have only to stop coining silver, break down its price, throw our output of whatever it will bring upon the London market, and in a very few years we

shall not export a bushel of wheat to England, but all our common grades of cotton will be left on our hands; for she can cause her India subjects, at 8 cents a day, to raise all the short-staple cotton she can manufacture.

With this prospect staring them in the face, and wheat and cotton down to the lowest profit limit, it is not strange that the intelligent people in the wheat-growing and cotton-raising States are opposed to this war on silver. It is a war carried on by English and American capitalists against American labor and prosperity. In this country, fortunately, labor has the intelligence and the votes to protect itself.

### SILVER HAS NOT FALLEN IN VALUE.

The function of money is to enable us conveniently to buy the necessaries and luxuries of life; and the true measure of the price of any kind of money, at a given date, is what it will buy of these.

Take a hundred articles of merchandise generally used by man to-day, and a silver dollar or a pound weight of silver bullion will exchange for more of them than at any time in the last twenty years; therefore it is not true that silver has actually fallen: it has really risen. But in the last thirteen years it has not risen so much as gold; so, while as to other things it has risen, it has, relatively to gold, fallen.

If the one hundred millions of people who unwiselydemonetized silver were more than the one thousand millions who have not, silver would have actually fallen. Our gold advocates are near-sighted; they cannot see beyond Great Britain, though that is not the world; it is not even a continent, but an island that potentially might be dropped into one of our lakes. They are chiefly bankers and their retainers, dealers in foreign exchange, or capitalists who frequently visit or entertain Englishmen, and who live with an eye single to their own interest: they seem to think that what apparently would for the moment benefit them must be for the permanent good of the country. Hence they argue that debts should be paid always in the dearest money, and that money should be made scarce and dear by confining it to gold, so that with their capital they can obtain the greatest possible amount of the products of the labor of others.

The fall in the value of silver bullion relatively to gold bullion has not in any way been caused by an overproduction of silver, for there has been none. This country is the largest producer, and its production of silver for the last forty years has been only $710,000,000, while of gold it was $1,710,000,000. This shows no over production of silver, but a very great overproduction of gold; and if we take in the rest of the world the excess of gold production is much greater, for it has for a long period, say from 1850 to 1870, for instance, been three times the production of silver. What, then, has caused silver to fall relatively to gold; or, rather, *why has gold risen?*

| | |
|---|---|
| In 1873 Germany, with a population of | 40,000,000 |
| Sweden, Norway, Denmark, and Portugal, with | 10,000,000 |
| And the United States, with | 50,000,000 |
| Total | 100,000,000 |

people, had just demonetized silver and began to scramble and struggle for gold. They changed silver from money with a fixed value to merchandise, and merchandise, too, that had but one market, London, and that market required only the supply for British India, $40,000,000 per year. This was but half the world's production; in fact, it was just about our annual production.

The necessary and inevitable effect was what it always is when twice as much merchandise is thrown upon the market as the market calls for—the price starting in 1873 at 103, fell by 1876 to 80. Gold would have fallen a great deal more than that had these countries demonetized gold instead of silver. Our people by 1876 began to agitate for the resumption of specie payments. They then discovered that Congress, without their knowledge, had demonetized silver and made it impossible to resume in gold alone without great distress. They then demanded the restoration of silver. By 1878 Congress heard the loud call of the people, and it was done. In 1879 specie payments were resumed.

Had the act of 1878 been fully carried out, as Congress intended, everything would have gone on well. Our whole output of silver would have been coined, and by this time we should have had 450,000,000 silver dollars as a basis, with gold, for currency, instead of half that sum. And England, instead of buying our silver at 80 and paying it at par for wheat and cotton in India, and breaking down the price of ours 20 per cent., would have had to buy her wheat and cotton of us at fair prices.

We lost in the sale of silver as merchandise, and we lost again by having our market for wheat and cotton depressed by this new competitor, where labor is only 8 cents a day.

The same influences and parties that secretly demonetized our silver in 1873 and opposed its restoration in 1878 evidently persuaded the Government to only half carry out the law, and they now clamor for its entire repeal.

'hese influences and parties are English, not American. Their bodies are with us, d may have been born or naturalized here, but their souls and ideas and principles · English.

WE SHOULD NOW HAVE AN AMERICAN POLICY.

Ve have been under the tutelage of foreigners and monarchists about long enough. are of age now. We are numerous enough, rich enough, and intelligent enough to ;e a national policy, and a political economy, as well as a system of government, ıpted to our own needs and geographical position.

AT HAS BEEN THE EFFECT IN THE PAST OF ADOPTING ENGLISH POLITICAL ECON-OMY INSTEAD OF AMERICAN?

'he mint up to June 30, 1885, had coined gold, $1,389,981,508.50; of silver, $434,224,-:: total, $1,824,205,118.50. Our mines have produced of gold and silver bullion not t to the mint but chiefly exported, $600,000,000. Total domestic product, $2,424,-,118.50; and yet with this enormous production and coinage, exceeding that of any er nation in the world, we had in 1878, when silver was restored, only about 0,000,000 of coin in the country.

Vhen considered from the American standpoint the cause of this is plain: Up to 6 our industrial and economic laws were so adjusted, having either a low pro-tive tariff or a high one counterbalanced high internal taxation, that with few l unimportant exceptions the balance of trade was steadily against us.

EFFECT OF AN AMERICAN POLICY.

But by that date the political intelligence of the people, seconded by acts of Con-ess, had so adjusted taxation, direct and indirect, that our own industries and peo-: instead of those of foreign countries were favored.

The balance of trade then turned and set steadily in our favor until our credit bal-ıce for ten years, up to the 30th of June last, amounted to $1,546,300,652, less, of urse, what we have been cheated by the fraudulent undervaluation of goods com-g in under the ad valorem clauses of our tariff.

This American policy and the restoration of silver has enabled us to pay a large ırt of our indebtedness abroad; to call home and pay the United States bonds; to ·ep at home all our gold and all our silver that the Government would coin; and to 'aw from Europe on balance $118,000,000 of her gold. In 1881, when we drew from urope $91,000,000 gold in one year, I had the pleasure of showing through the assay ffice in New York an English manufacturer who before that had sold largely to this ıntry, but had lost the trade through our making the same goods. He saw lines of 'ays coming up from the steamer and dumping tons of heavy iron-bound boxes at ıe door of the assay office. On being told they were sovereigns from the Bank of ngland, he was quite taken aback, and on going through the store-rooms and the ıb-treasury and seeing $250,000,000 gold and $100,000,000 of silver he remarked with ng face that he couldn't understand it.

DUTY OF CONGRESS.

What Congress should do is to let well enough alone, and not disturb our industrial ıd economic laws that are producing so good results in keeping the balance of trade our favor, and enabling us to retain our gold. Congress should also take care that ıe Treasury Department in good faith carries out the silver act of 1878 to the full ·tent of the output of our silver mines, less what is required for the arts. This will quire about $40,000,000 coinage of silver a year. This can be done by simply chang-g one word in the law, viz, two to three, so that the minimum monthly purchase of lver shall be three millions instead of two. That Department should also be re-ıired to issue coin or coin certificates for coin in payment for silver bullion, and so exchange certificates whenever called for, so that the volume of our money should ıt be decreased as the debt is paid.

In paying obligations that call simply for coin the Treasury Department should not · permitted to discriminate against any one kind of coin to the injury or inconve-ence of the Government or the people when that kind of coin fulfills the contract.

The demand of the gold monometallists that more silver should be put in the dollar without fact or reason to sustain it and should not be heeded. We now put 3 per nt. more silver in a dollar than any European nation, and also as much as any her nation. To put in more silver is equally as dishonest as to put in less. The ıe oppresses the debtor, the other cheats the creditor. Money should remain the same. the laws as above indicated are carried into full effect, silver in due time will re-

cover its equality of bullion value with gold at our ratio to gold, and in a
years we shall hold more gold and more silver than any other nation in Chr
and we shall have a paper currency better than that of the Bank of Englan
ours will be based on the two metals, while hers is based on only one, and l
ject to twice as much fluctuation as if based on the two; and the small sto
one held by England often compels her from time to time to change the ra
interest to all points between 2 per cent. and 10 per cent., besides exposin
chants to periodical squeezes from the distinguished gentlemen who govern
of England.

DEXTER A. HA'

111 BROADWAY, NEW YORK, *February* 15, 1886.

GRESS, } HOUSE OF REPRESENTATIVES. { REPORT
sion. } { No. 525.

# HOUSE AND FOG-SIGNAL AT SAN LUIS OBISPO, CAL.

RY 16, 1886.—Referred to the House Calendar and ordered to be printed.

ROW, from the Committee on Commerce, submitted the following

## REPORT:

[To accompany bill H. R. 5862.]

*mittee on Commerce, to whom was referred the bill (H. R. 3228) an appropriation for the establishment of a light-house and fog- at San Luis Obispo, Cal., beg leave to report:*

nder the rules of the House, the duty of this committee is lim- n inquiry as to the necessity for the establishment of light- nd does not extend to the matter of recommending appropria- refor. The committee have inquired into the necessity for the se provided for in the bill, and find that the dangers of navi- nd the demands of commerce on the Pacific coast fully justify blishment. A substitute for the bill is therefore submitted, g the appropriation), which the committee recommend for pas-

ecommendation is founded in part upon the views of the Light- board, as set forth in the accompanying letters, &c.

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TREASURY DEPARTMENT,
OFFICE OF THE LIGHT-HOUSE BOARD,
*Washington, January 22, 1886.*

e Light-House Board has the honor to acknowledge the receipt of the letter, nary 19, 1886, from the Committee on Commerce of the House of Represent- nsmitting quite a number of bills for the views of the Board, and among se bill 3228, making an appropriation for establishing a light-house and fog- San Luis Obispo, Cal.

the Board begs leave to state that the necessity for a light-house and fog- his point has been pressed upon Congress from time to time. At the last Congress a bill was passed by the House of Representatives for the appro- f $20,000 to establish and maintain a fog-signal at San Luis Obispo, but it ass the Senate.

nual Report for 1885, on page 83, the reasons why a light and fog-signal established at this locality are fully stated, and it is recommended that an tion of $50,000 for this purpose be made, and an item for that sum is included rd's estimate for the coming year.

act from that report on this subject is herewith transmitted.

of the letter of the Committee on Commerce is inclosed, together with the 228) in question.

y respectfully,

S. C. ROWAN,
*Vice-Admiral, U. S. N., Chairman.*

. SECRETARY OF THE TREASURY.

*Extract from Annual Report of Light-House Board, June* 30, 1885.

*San Luis Obispo, at the entrance of Port Harford, San Luis Obispo Bay, California.*—San Luis Head, or Whaler Rock, in this bay, is midway between the light at Point Conception and that at Piedras Blancas, a distance of 94 unlighted miles. A light at this point will be primary coast light, and will have the additional value of being a guide to Port Harford. The bay of San Luis Obispo is the most important roadstead on the Pacific coast south of San Francisco, and with one exception is also the best. The harbor is always good for eight or nine months in the year, and during the remaining time it is never actually bad. Its security is exceptional for an open roadstead. The commerce of Port Harford is now considerable, and it is increasing yearly. It is the terminus of a railway which is the natural outlet for the agricultural products of that section, and many schooners loaded with lumber make this port. In addition, the steamers of the Pacific Coast Steamship Company all touch here, averaging one steamer a day the year around, carrying both passengers and freight, and all of the steamers go to the wharf at the head of the bay. This company maintains a private light here, on which all the sailing vessels entering this port depend, none of which belong to the company. As the bay is subject to dense fogs for the greater part of the year, this company is now contemplating the establishment and maintenance of a steam fog signal here at their own cost.

The Light-House Establishment acquired by executive reservation a small island about 500 feet from San Luis Head, called Whaler Island. It has obtained the refusal of 30 acres at the head, which it can purchase, together with adequate water privileges, for a reasonable sum. The necessity for a light and fog-signal at this point has been pressed upon the attention of Congress from time to time, and recently with increased vigor. At the last session of Congress a bill was passed by the House of Representatives for the appropriation of $20,000 to establish and maintain a fog-signal at this point, but it failed to pass the Senate. As it now appears that a light is as much needed as a fog-signal, and that both are quite necessary to the commerce of this section, the Board recommends that an appropriation of $50,000 be made for the establishment of a light and fog-signal at or near San Luis Head, with authority, if need be, to place the one on the head and the other on the adjacent island.

C

NGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
ssion. } { No. 526.

# HOUSE AND FOG-SIGNAL AT POINT SUR, CALIFORNIA.

RY 16, 1886.—Referred to the House Calendar and ordered to be printed.

ROW, from the Committee on Commerce, submitted the following

## REPORT:

[To accompany bill H. R. 5863.]

*mittee on Commerce, to whom was referred the bill (H. R. 3229) an appropriation for the establishment of a light-house and fog-at Point Sur, California, beg leave to report:*

under the rules of the House, the duty of this committee is an inquiry as to the necessity for the establishment of light-nd does not extend to the matter of recommending appropria-refor.

mmittee has inquired into the necessity for the light-house pro-in the bill, and find that the dangers of navigation and the of commerce on the Pacific coast fully justify its establish-substitute for the bill is therefore submitted (omitting the ation), which the committee recommend for passage.

ecommendation is founded in part upon the views of the Light-oard, as set forth in the accompanying letters, &c.

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TREASURY DEPARTMENT,
OFFICE OF THE LIGHT-HOUSE BOARD,
*Washington, January* 22, 1886.

e Light-House Board has the honor to acknowledge the receipt of the letter, January, 1886, from the Committee on Commerce of the House of Repre-transmitting various bills, and among them House bill 3229, making an ion for the commencement of a light-house and fog-signal at Point Sur, for the Board's views thereon.

the Board begs leave to state that the necessity for the establishment of a at Point Sur has been recognized by the Board for years, as will be seen e to its Annual Reports for the years 1874, 1875, 1877, 1880, and 1881.

nual Report for 1885, on page 82, the necessity for a light at this locality is d and the reasons therefor are fully stated. An extract from that report ject is inclosed.

mated that the cost of establishing a light at Point Sur will be $100,000, estimates for the coming year the Board has included an item of $50,000 mencement of this work.

f the letter of the Committee on Commerce is inclosed, together with the 3229) in question.

r respectfully,

S. C. ROWAN,
*Vice-Admiral, United States Navy, Chairman.*

. SECRETARY OF THE TREASURY.

*Extract from Annual Report of Light-House Board, June 30, 1885.*

*Point Sur, sea-coast of California.*—This dangerous point, which is still unlight is made the subject of much complaint. The steamer Ventura was lost there in 1 The Board called attention to the need of establishing a light-house there in its nual Reports for 1874, '75, '77, '78, '80, and '81. The following is an extract from Report for 1874:

"Vessels leaving San Francisco for the south, having proceeded as far as Pig Point light, take their departure from Point Sur, some 60 miles distant, the great dentation of the Bay of Monterey intervening. Vessels to the southward bound to S Francisco having arrived at Piedras Blancas, take their departure for Point S again about 6 miles distant; hence Point Sur is a most important point, and sho be the site of a light-house. In considering the various points on the California co where light-houses are still required Point Sur claims the place of greatest importan In 1866 the Light-House Board ordered an examination of this point to be made, the following is an extract from the report of the examining officer:

"'Point Sur is a metamorphic sandstone, and has an altitude of 363 feet (establisl from observations with the aneroid barometer). It covers an area of nearly 3 ac its general shape being that of a wedge with an indented edge. The general di tion of the wedge, as indicated by the compass, is east-southeast and west-northw The north side and top of Point Sur are covered with grass, and the sides ar v steep, making the ascent very difficult. The extreme eastern and western porti of this point, or rock, are almost vertical, and the upper edge very narrow, not be more than 10 or 12 feet in width. Point Sur is situated at a distance of about hal mile from the foot of the range of hills which form the prominent feature of the co the intervening portion of the country being low and sandy. In very rough weat the lowland is overflowed, thus making an island of the rock. Sur River, whic about 3 miles southeast of point Sur, contains good water during the whole year, near its mouth is a good landing-place for vessels. The only way in which supp can be sent to Point Sur is by water, for the only road is a trail almost impassa even for a horse.'

"The Coast Survey Directory for the Pacific coast contains these remarks:

"'From Piedras Blancas the coast trends northwest, half west for a distance o miles in an almost perfectly straight line. * * * Continuing on the same beari at a distance of 49 miles from Piedras Blancas, is Point Sur, sometimes called Lo making out nearly half a mile. As seen from the north or south, at a distance o miles, Point Sur appears a high, large, round-topped island; but upon approach it a low neck of land is seen connecting it with the main.'

"From the preceding it is apparent that the importance of this point as a light-ho site is very great. It must also appear that the erection there of a light-house, w the accompanying buildings, will be an expensive operation. It will be necessar make a detailed survey of the rock before anything definite can be known as to cost of establishing this station. As nearly as can be estimated with the data av ble, it will cost not less than $100,000."

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 527.

# BRIDGE ACROSS STATEN ISLAND SOUND.

FEBRUARY 16, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. CLARDY, from the Committee on Commerce, submitted the following

## REPORT:

[To accompany bill H. R. 5864.]

*The Committee on Commerce, to whom was referred the bill (H. R. 1601) to authorize the construction of a bridge over Staten Island Sound, beg leave to report:*

That they have had such bill under consideration, and that after examining the report of Major Gillespie, of the Corps of Engineers, hereto annexed, and all other obtainable evidence touching the proposed location of the bridge, the character of the sound, and its commerce, they have come to the conclusion that a bridge built under the provisions of the accompanying substitute for said bill will not materially interfere with the navigation of said sound; and they therefore recommend the passage of the substitute instead of the bill referred to them.

OFFICE OF THE CHIEF OF ENGINEERS, U. S. ARMY,
*Washington, D. C., March* 4, 1884.

Hon. ROBERT T. LINCOLN,
*Secretary of War:*

SIR: I have the honor to return herewith (S. 1447), "A bill to authorize the construction of certain bridges across the Staten Island Sound, known as Arthur Kill, and to establish the same as post-roads," referred to the War Department for its views and suggestions from the Committee on Commerce of the Senate of the United States, and the note to this office, and to invite attention to the following copy of the report thereon of Maj. G. L. Gillespie, Corps of Engineers.

It will be observed that Major Gillespie sees no objection to the construction of drawbridges as provided for, but makes objection to spanning the highway in question by a bridge with unbroken spans having the elevation specified in the bill.

[Second indorsement.]

UNITED STATES ENGINEER OFFICE,
*New York, February* 28, 1884.

Respectfully returned to the Chief of Engineers, U. S. Army. That there may be no mistake as to the water-way mentioned as "Staten Island Sound," I take occasion to say in the beginning that the navigable channel known by that name is limited exclusively to the narrow and tortuous water-course usually called Arthur Kill, which separates Staten Island on the west side from the New Jersey shore, and extends from Elizabethport to Perth Amboy, N. J.

The name Kill von Kull is reserved solely for the connecting passage between upper New York Bay and Newark Bay, separating Bergen Neck on the north from Staten Island on the south.

The bridges mentioned in Senate bill 1447, Forty-eighth Congress, first session, are proposed to be erected over Arthur Kill, one at or below Elizabethport, N. J., and the other at or above Perth Amboy, N. J.

Arthur Kill is the grand highway for all the local commerce of the several por and streams on the west side of Staten Island, as well as for the interstate commer passing south and west through the Delaware and Raritan Canal, which connects tl Raritan River at New Brunswick, N. J., with the Delaware River at Trenton, N. This canal is one of the principal links of the chain of internal navigation of tl Atlantic seaboard. It has a minimum depth of 8 feet throughout, and its annu tonnage is 2,000,000 tons, approximately; less of late years than formerly, owing railroad competition, though its importance as a waterway is not impaired.

The draws which are described in the bill are sufficiently wide to meet all the r quirements of the commerce along the route over which the bridges are to be bui

I do not approve the spanning of any important navigable highway, adjacent sea, which is now or may hereafter be utilized by sea-going vessels, by a bridge wi continuous spans, even if the bottom chords should be placed so high as 100 fe above high-water mark, except in the rare case of two large and populous citi where the intercommunication between them over a bridge would be greatly inte fered with by frequent and prolonged openings of the draw.

No such condition exists on Arthur Kill, and while the existing depth of water not sufficient for sea-going vessels of the first class, yet the stream is capable of i provement, and will be improved whenever commerce demands it. For this reas the bridges should be provided with draws. The proposed clear width of 200 feet either side of the pivot will be ample to prevent interference with the security a convenience of navigation of Arthur Kill.

On the approach to Newark, N. J., from Kill von Kull, the Central Railroad of Ne Jersey, which crosses Newark Bay, has a draw with a clear opening of 80 feet either side of pivot; the New York and Newark Railroad, at the mouth of the Passa River, has one of 65 feet, and the Pennsylvania Railroad, in the city of Newark, h one of 75 feet.

The Central Railroad of New Jersey, whose tracks cross Raritan River near i mouth, on the approach to the canal, after a lengthy controversy with the Delawa and Raritan Canal Company, adopted and built a draw opening of 200 feet, the sa as proposed in this bill.

The main objects to be gained by the construction of these bridges are to give rap transit around the island to points on the New Jersey shore, to increase the faciliti for reaching New York, and to provide means for reaching coal wharves to be bui it is said, by the coal-carrying roads on deep water on the east side of the island.

It is a comprehensive enterprise, which, if successfully carried out, will add great to the commercial character of the island and the adjacent shores, and the bridg may be safely authorized to be built under the restrictions of the bill without a detriment to commerce, present or prospective.

The papers are herewith returned.

G. L. GILLESPIE,
*Major of Engineers, Bvt. Lieut. Col., U. S. A.*

I concur in these views.

Very respectfully, your obedient servant,

H. G. WRIGHT,
*Chief of Engineers, Brig. and Bvt. Maj. Gen.*

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OFFICE OF THE CHIEF OF ENGINEERS, UNITED STATES ARMY,
*Washington, D. C., April* 17, 1884.

HON. ROBERT T. LINCOLN,
*Secretary of War:*

SIR: I have the honor to acknowledge the reference to this office on the 11th instar of the letter of the Hon. W. P. Frye, of the Committee on Commerce of the Unite States Senate, inclosing S. 1447, "to authorize the construction of certain bridg across the Staten Island Sound, known as Arthur Kill or Kill von Kull, and to establis the same as post roads," and certain papers relating thereto, and to state that it w referred to Maj. G. L. Gillespie, Corps of Engineers, who has returned it with the r port of which the following is a copy.

Major Gillespie's views appear to be just and proper and are concurred in.

UNITED STATES ENGINEER'S OFFICE,
*New York, April* 15, 1884.

Respectfully returned to the Chief of Engineers, United States Army.

The intent of the act, as I understand it, is to authorize at this time the constru tion of a railroad bridge over the navigable waters of Arthur Kill, the Secretary War having the reserved right, in the interest of commerce, to dictate the charact and arrangement of the bridge in all its parts.

The petition submitted with Mr. Bonnett's paper has been carefully considered. The east bank of Arthur Kill, on the northern side of Staten Island, extending south to Fresh Kill, is a wide marsh land, with but little variation in its elevation for a distance back from the shore line of over 2 miles. If the lower chord of the bridge proposed to be built near Elizabethport be placed at 135 feet above high water the approaches to the bridge would be over long and high trestle-work, which would have so steep a grade as to make the railroad probably unfitted for giving rapid transit to the towns on the island and on the west bank, or for convenient connection with existing railroads.

The 135-feet contour of the island along the proposed railroad line on the north shore does not extend westward of Factoryville. At the southwestern point of the island the ground is higher than on the north shore; on the ridge above Tottenville the 100-feet contour appears on a single rise, but this is an exception; all the rest of the ground in the vicinity is much lower.

The low character of the land adjacent to Arthur Kill therefore compels, with rapid transit in view, the construction of low bridges; and that they may not obstruct navigation, draws must be provided, the exact width and arrangement of which can be definitely stated only after a careful survey of the water-course has been made, including the determination of the strength and directions of the current. A clear width of not less than 200 feet in the channel way, through the bridges provided for in the act, is, with my present knowledge, deemed sufficient for the requirement of the commerce of Arthur Kill, and the projected bridges may, it is thought, be built without interfering injuriously with the flow of the tide, or without increasing the dangers to navigation due to ice which forms in the kill or which is driven there by winds and currents.

The relation of the bridges to the tides, ice flows, and other matters involving the rights of commerce, will engage the attention of the examining officers designated by the Secretary of War, after the bridge company shall have presented drawings and specifications of the plans proposed.

The examination will include not only the bridges proper and the necessary width of draws, but their sites and the sites and arrangements of the piers with reference to the navigation of Arthur Kill in all its bearings.

The papers are herewith returned.

G. L. GILLESPIE,
*Major of Engineers, Bvt. Lieut. Col., U. S. A.*

The letter of the Hon. Mr. Frye is herewith returned.

Very respectfully, your obedient servant,

JOHN NEWTON,
*Chief of Engineers, Brig. and Bvt. Maj. Gen.*

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WAR DEPARTMENT,
*Washington City, April* 19, 1884.

SIR: Referring to your letter of the 10th instant, inclosing bill S. 1447, Forty-eighth Congress, first session, a bill "to authorize the construction of certain bridges across the Staten Island Sound, known as Arthur Kill or Kill von Kull, and to establish the same as post-roads," together with a petition from Mr. P. Bonnett and other shore owners, and also returning for consideration in connection with the petition referred to a report, dated the 4th ultimo, from the Chief of Engineers, embodying a report on this bill from Maj. G. L. Gillespie, Corps of Engineers, I have the honor to invite your attention to the inclosed report of April 17, 1884, from the Chief of Engineers, embodying a supplemental report, dated the 15th instant, from Maj. G. L. Gillespie, Corps of Engineers, whose views as expressed therein are concurred in by the Chief of Engineers.

The inclosures to your letter are herewith returned.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
*Secretary of War.*

HON. WILLIAM P. FRYE,
*Chairman of subcommittee of Committee on Commerce, United States Senate.*

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 528.

# LIGHT AND FOG SIGNAL AT CASTLE HILL, R. I.

FEBRUARY 16, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. R. T. DAVIS, from the Committee on Commerce, submitted the following

## REPORT:

[To accompany bill H. R. 5865.]

*The Committee on Commerce, to whom was referred House bill* 1134, *beg leave to submit the following report:*

The site of the proposed light-house is on the east side of the entrance to Narragansett Bay and Newport Harbor, Rhode Island. The channel is narrow, and in thick weather or during fogs, which are prevalent in that locality, the approach is dangerous. The Old Colony Steamboat Company has maintained a signal at this point for several years, at their own expense. An appropriation was made several years ago for a fog-signal, but as the land could not then be secured the appropriation lapsed.

The navigation interests which are concerned are very large. The steamers of the Old Colony Steamboat Company alone carry 250,000 passengers annually and over $100,000,000 of property, and all the coastwise commerce of the cities of Newport, Fall River, and Taunton, and other localities on the east side of Narragansett Bay and Taunton Rivers uses this channel. The need for the establishment of a light-house and fog-signal is imperative. Your committee recommend the passage of a substitute for House bill No. 1134, partly because its jurisdiction is confined to the consideration of the propriety of establishing light-houses, and does not include the power to report an appropriation for their erection, and partly because the proviso in the substitute is necessary to enable the Government to secure the land, which is extremely valuable, without expense.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 529.

# JOSEPH FRANCIS.

FEBRUARY 16, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. IRION, from the Committee on Commerce, submitted the following

## REPORT:

[To accompany H. Res. 125.]

*The Committee on Commerce, to whom were referred the memorials of the New York Chamber of Commerce and the American Institute of New York, beg leave to submit the following report:*

The joint resolutions offered by the committee propose nothing more than the recognition by the Government of the United States of the eminent services rendered by Mr. Joseph Francis to the cause of humanity by furnishing an avenue of escape from a watery grave to the thousands of unfortunate beings who are yearly cast away on the shores of the oceans and great lakes.

Previous to the invention of the life-saving appliances of Mr. Francis the wreck of a vessel on the storm-swept shores of the sea was certain death to all or nearly all on board. In early life his attention was attracted to the great loss of life and property along the Atlantic coast. His heart was moved to sympathy for the large number of helpless beings who were yearly swept away, and his active genius set to work to provide some means by which they might be transported in safety from the vessel to the shore. Encouraged by the partial success of his early efforts, he persevered in making improvement after improvement, until his inventive genius culminated in the construction of the first perfect life-car, in the year 1848. It was not, however, until January, 1850, that he had an opportunity to test the efficiency of his invention. At that time "the British ship Ayrshire, having become disabled, was driven on shore at Squan Beach during a terrific snow-storm. She had 201 and after striking the beach lay there stranded, the sea breaking over her and the surf rolling in so high that it was impossible for any boat to reach her."

Through the instrumentality of the mortar and line, a hawser was stretched from the shore to the ship, and along this passway the life-car made frequent trips, until 200 out of the 201 persons on board were carried over the boiling surf in safety to the land.

This successful experiment at once brought Mr. Francis and his life-car into prominence before the civilized world. Everywhere, except in his own country, his services in the cause of humanity were fitly recognized; and now, in the eighty-fifth year of his age, as the last honor which is to crown his well-spent life, he asks his own Government to award him a suitable testimonial of his worth and life-long devotion to the welfare of his fellow-man. In this request he is sustained by the

American Institute of New York and by the Chamber of Comm
the State of New York, both of which bodies have memorialize
Congress of the United States to take such action in recognition
great services to the country and to humanity of Joseph Franc
its wisdom it may deem most fitting and proper."

Mr. Francis asks no pension or pecuniary reward, but simpl
acknowledgment from the Government of his native country
honorable life and eminent services in the cause of humanity.

In view of these facts, the Committee on Commerce beg leav
port the accompanying joint resolutions, and recommend their ad

ıNGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
ession. } { No. 530.

# NATIONAL CEMETERY AT KNOXVILLE, TENN.

RY 16, 1886.—Referred to the House Calendar and ordered to be printed.

JK, from the Committee on Military Affairs, submitted the following

## REPORT:

[To accompany bill H. R. 5866.]

ommittee on Military Affairs, to whom was referred the bill 98) to construct a macadamized road to the national cemetery tville, Tenn., having had the same under consideration, are ously of opinion that said road ought to be constructed, and nay run over the proper and most convenient route, a substi- said bill is herewith reported, and its passage recommended. essity for the construction of said road grows out of the fact l cemetery lies outside of the city of Knoxville, and in a locality will be many years before the city authorities will be able to, any necessity for, improving the roads now designated as streets to said cemetery, and the present condition of said approaches t both difficult and disagreeable to visit said cemetery to pay ute of respect to the nation's dead on Decoration Day and other iate occasions.

plats and facts connected therewith, showing the situation of metery and the condition of the approaches thereto, now in the on of your committee, and on which it has acted, very clearly h the necessity for the construction of this road, and your com- herefore recommend that the substitute herewith reported be

TH CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
1st Session. } { No. 531.

# CAVALRY IN NEW MEXICO AND ARIZONA.

RUARY 16, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

LAIRD, from the Committee on Military Affairs, submitted the following

## REPORT:

[To accompany bill H. R. 5867.]

The Committee on Military Affairs, to whom were referred House t resolution No. 41, authorizing the President of the United States raise not exceeding two regiments of volunteer cavalry in the Terri- ies of New Mexico and Arizona to suppress Indian hostilities therein, l the bill (H. R. 2848) to provide for the organization of a regiment volunteers in New Mexico and Arizona for the purpose of suppress- outrages on settlers committed by hostile Indians, having considered same, report back House bill 5867 as a substitute therefor, and rec- mend that the same do pass.

It appears by the annual report of Brig. Gen. George Crook, U. S. my, commanding the Department of Arizona, for 1885, that on the th of May last certain of the Chiricahua Apaches, under the leadership Geronimo, Magnus, Nana, Natchez, and Chihuahua, with about fifty cks and ninety squaws, left the San Carlos Reservation and went on war path, where they are now and have been ever since that date. speaking of the cause of this outbreak, General Crook uses this lan- age:

> have been unable to learn the cause which precipitated the outbreak of the Chiri- uas. From the investigation made it would seem that the step was taken hur- lly, without premeditation, for fear of punishment. Geronimo and Magnus had de *tiswin* (a liquor) and been drunk, and Lieutenant Davis informed them that he uld report them for my action, and, without warning, as many of them as could be uced by persuasion or intimidated by threats left the reservation.

At another point in his report General Crook says:

> These Indians (in leaving the reservation) violated their most sacred promise, given me under circumstances which make this outbreak of the most heinous nature, d also make it necessary that the most summary punishment should be meted out them, not only as being just for their own offenses and atrocities, but as an example the remainder of the Apache tribe.

Your committee do not find in the report of General Crook any state- ent of the number of settlers in Arizona and New Mexico killed by ese Indians during this time. We do find a statement of the num- r of murders committed by them during this raid, made by Dr. Jesse Thompson, author of a book entitled Los Apaches, in which a his- ry of these Indians and their outrages is given. Dr. Thompson aces the number of persons murdered in this outbreak at 200 (about of this number citizens of old Mexico). All of them, except perhaps

a half dozen of them killed in battle, he claims were foully a nated, their bodies mutilated, the females always ravaged, the cl brained, and their bodies cut to pieces. Dr. Thompson estimate

That within the past two decades 1,000 citizens of New Mexico and Arizo been murdered by these Apaches. Out of this number over 100 women h brutally ravaged, then foully murdered. During Victoria's outbreak (the dians, 1879 to 1882) 400 citizens of the counties of Grant, Lincoln, Socorro, a Ana (in the Territory of New Mexico) were murdered.

The same authority puts the amount of property destroyed by imo at hundreds of thousands of dollars, and taking into consi the consequential results upon the development of the Territo committee are of the opinion that his estimate is correct.

Speaking of the result of the campaign of the Army again Indians, General Crook says:

I may also add, as showing the amount of difficulties with which troo country have to contend in the pursuit of Indians, that though there were of cavalry and 100 Indian scouts at different times on the trail of the sm into which the Indians had separated, it is thought that the renegades es Mexico without the loss of one of their number, and this in spite of most e vigorous pursuit.

This was true of the military operations against the hostile date of the report of the general commanding in that departn September 9, 1885.

Your committee are not aware that any of the Indians ha captured or killed by the Army since that time. Several soldi been killed by the hostiles, but none of the hostiles have been l the soldiers, although, according to the best information at ha five or six of the Indians have been wounded and a numbe squaws captured.

The conceded failure of the Army to give adequate protectio lives and property of the settlers on the frontier does not reli gress of its responsibilities. If, after eight months of active op against the hostiles on the part of the Army, human life in the tories is still in jeopardy, and not a single one of the fifty murdere hundred defenseless men, women, and children, and the desti hundreds of thousands of dollars' worth of property, has been captured, it is time something was done by Congress to make guarantee of protection, which is the first duty of civilized gov

The failure of the military to suppress this outbreak is the f system in a contest with chaos. The Army is an organization to civilized war and not adapted to stealth, treachery, and Military operations are based on science and proceed with ma ical exactness. The tactics of the savage are the product of coupled with all the low cunning and more than the fiercenes wild beast. It is not a question of the capacity or courage of th and men of the Army. No one questions the possession of the ties. The question is not, will the Army fight, but, can it get to fight? The whole trouble is to get at the enemy. The Apa caught can be subdued; the trouble is to catch him. No ma quainted with the country under discussion can comprehend culties surrounding military operations therein, and when yo the almost inconceivable obstacles offered by nature an enemy at home in these mountain fastnesses as the untamed brute who it is, and who can climb its crags as easily as a spider does its can descend into its cañons almost as swiftly as a hawk divi prey, you have a combination that baffles heavy armed and mounted troops.

Manifestly what the Army needs in its operations agains tthe mountain Indians of these Territories is a light armed body of men who shall approximate to the Indian in skill and endurance and equipment. Let the Indian be met with his own methods and he will be speedily subdued.

The troops proposed to be raised by the bill under consideration are, in the opinion of your committee, necessary to the efficiency of the Army. These volunteers, under their own officers, acting with the Regular Army as scouts and trailers, will give speedy peace to these Territories, and although disbanded and no expense to the General Government, their readiness to come together at the call of the President will become a standing guarantee of protection to the now defenseless frontier.

The bill proposed is based on the experience of the most enlightened men in the country where these outrages have been and are being committed. The passage of this act by Congress will, in their opinion, bring relief to their country. Your committee select from the numerous letters and memorials before them bearing on this subject the following:

*Extract from a letter from Hon. E. G. Ross, governor of the Territory of New Mexico, dated Santa Fé, N. Mex., December* 5, 1885.

The Territorial government is already largely in debt for the maintenance of militia in the field, till it is about impossible to go any farther. The Army has failed to give us relief, and the Territory is financially unable to keep troops in the field. The secret of all this failure, in my judgment, is due to the system, or rather lack of system, that has been pursued * * * There is, in my judgment, great danger of a general Indian war in the West in the spring, unless decisive and effective steps are taken by the Government to prevent it, and now is the time to take those steps. Ninety days from now it may be two late.

The Utes on the northwest are becoming dissatisfied and turbulent. They can put in the field 3,000 warriors, and they are good fighters. The young men of the Navajoes on the west are also becoming restless and can muster 2,000 warriors, while the successful raids of the Chiricahuas is exciting the other Apache bands in the southwest to similar ventures. These tribes combined, once out on the warpath, would occupy the undivided attention of the entire United States Army, and force an outlay of tens of millions of money before they could be suppressed. It would be a war of extermination on both sides.

The Government should immediately send its entire available force to the West. There are thousands of troops now doing "dress-parade" duty at the Eastern military stations who might just as well be here as there, and doing some good, not in wearing out themselves and horses, but in maintaining cantonments at all the haunts, runways, and watering-places of the Indians, leaving the trailing and scouting to the frontiersmen in sufficient numbers to thoroughly scour the country—to "beat the bush" as it were—and drive in or locate the game. This would be my plan. Between the Utes, the Navajoes, and the Apaches there would be a frontier of about 600 miles to cover. Locate the Regular Army troops as suggested, and then employ two or three thousand frontiersmen as trailers and scouts, and there will be no further apprehension of Indian depredations.

Also, the following:

*Extract from letter of Jesse E. Thompson, major, New Mexico Volunteer Cavalry, dated Lake Valley, N. Mex., December* 24, 1885.

I have the honor to suggest as a remedy for our present Indian trouble in New Mexico and Arizona that Congress should speedily call out a volunteer force of 500 or 1,000 men through the governors of New Mexico and Arizona. One or two thousand mountaineers and Mexicans in these Territories, well mounted, armed, equipped, and officered by tried men, would do more toward settling this war than any other step that could be taken. New Mexico has not the funds to keep 50 men in the field. In this respect we are powerless. * * * The people are getting sick over the action of United States field commanders. * * * They march by daylight with all the notoriety possible and encamp at night, build large fires, seemingly to notify the hostiles to keep out of sight, and when a fight occurs the enemy invariably ambush the

troops, as they did Lieutenant Fountain, Troop C, Eighth Cavalry, on the 15th of December, 1885, near White House Ranch, on the Rio Gila, Grant County, New Mexico. If a force of volunteers were called out with equal facilities as to pay and supplies, I am sure these Indians would soon be killed or run out of our country. Night marching is the only way to come up with these wily savages. By this means their camps can be surprised, their stock captured, and the warriors killed. * * * I have been out for over two months with from ten to thirty men, acting with United States troops; did all their trailing and scenting by daylight only, and not one Indian has been killed. I have lost four of my men killed and two wounded. The Territory is unable to pay my men or to furnish rations for man and horse, and consequently I have quit the field in disgust, knowing that under the present system of organization and system of campaigning I could accomplish nothing towards getting rid of these hostiles.

Also, the following:

*Extract from letter of A. J. Fountain, colonel First Regiment New Mexico Cavalry, dated Las Cruces, N. Mex., January 3, 1886.*

If asked to devise a plan to drive the hostiles out of Southern New Mexico, and keep them out, I would suggest—

(1) Station a detachment, say 15 to 20 regular troops (infantry) at the several watering places on the Mexican line and between the line and the mountains, these detachments simply to hold the water and prevent hostiles from getting any. They should intrench; hold a troup of *irregular* native cavalry at, say, Hillsborough, Deming, Lordsburg, and Palomas Lake, the horses to be kept in good order and readiness for immediate pursuit of fugitive Indians over the plains between the Southern Pacific Railroad and the Mexican line. Stock cars for the horses should be kept on a side track at Lordsburg and Deming, so that the troops could be moved promptly to points on the railroad. Then take, say, 500 native volunteer militia, *dismounted;* let every man carry ten days' rations in his blanket, the rations to consist of *pinola* and dried beef *only*. Start these men on foot at the head of the Mogollon Mountains; furnish them with a supply of blood-hounds; let them scout the mountains south, driving the hostiles before them: when they get them *out* of the mountains, the mounted men to take up the pursuit. You have then got the enemy out on the plains, all the watering places are guarded, and if he is not annihilated it will be the fault of the officers in charge of the movement.

(2) The men should be uniformed in olive-green canvas duck, such a dress as is worn by miners and ranchmen, the most sensible and serviceable uniform that can be devised.

(3) The men should be well paid, say $30 per month for footmen and $45 per month for cavalry.

(4) Supply depots should be established at the principal towns, mining camps, and the several watering places. Packages of rations containing the proper proportions of hard bread, dried beef, ground coffee, sugar and salt, not to exceed 60 pounds in weight, securely packed in *rawhide covers*, should be kept at the supply depots ready for instantaneous issue. Two of these packages would be a load for one pack mule. Common-sense paniers, such as are used by prospectors, made of rawhide, should be furnished for pack mules whenever pack mules are used. Every cavalryman should have five pounds of *pinola* and two and a half pounds of finely-ground dried beef mixed. This should be carried in a strong canvas sack behind his saddle. He might also be allowed to carry a small sack of ground coffee in his pocket. This ration should last him five days.

These are the opinions of practical men who have been forced by events to reflect on the subject under consideration. Colonel Fountain's suggestions are particularly valuable from the fact that he has been fighting these very Indians from time to time for the last twenty-five years, having served some time under Col. Kit Carson. Major Thompson and Colonel Fountain have been called out several times since this outbreak to defend their fellow-citizens, and have demonstrated by the vigor of their operations the value of troops of the kind provided for in this bill. Neither the views of these gentlemen, or the pertinent and intelligent statements of Governor Ross, are derived from Cooper's novels, nor are they dulled or distorted by two thousand miles of distance. With them it is a problem of life and death, and they have measured it as such, and their face to face judgment is of great value.

Your committee believe that no one will contest the necessity for prompt action in this matter, nor will any be found to deny but what this measure promises practical relief. The precedents for such action by Congress are numerous. It called out volunteers in the Creek war, 1813–'14; the Seminole war, 1817–'18; the Black Hawk war, 1831–'32; the Cherokee disturbances, 1838–'39; the Creek war of 1836–'37; the Florida Indian war, 1835–'43; the Apache, Navajo, and Utah wars of 1846–'56; the Comanche war, 1854; the Seminole war of 1856–'58; the Apache and Navajo, in these Territories, in 1861–'63, and the wars with Indians on the Pacific slope.

In fixing the pay of the troops provided for in this bill, your committee has been actuated by a desire to secure for this service not only men who were well qualified, but the best men, men who have families and property at stake. Unless men of this class, who are commonly dependent on their labor for the support of themselves and families, can receive enough to support their families in their absence, the result would probably be that the ranks of these regiments would be filled with a reckless and turbulent class of men, by no means as reliable as the sober and industrious class first mentioned, and who compose the vast majority of the people of these Territories. While the pay of the privates and non-commissioned officers is in excess of that of the Regular Army, it is not thought by your committee to be in excess of what the circumstances warrant.

As to the extra horse per man provided in the bill, the cost of this extra mount is not to be considered against its necessity, and in any event the cost of two such horses (Mexican or Indian ponies) as are provided for will not equal the cost of the one American cavalry horse used by the regular cavalryman, which horse has to be kept in grain, and generally in hay, at great expense for transportation, while the native pony will live on native grasses and at no cost to the Government.

While your committee recognize that it is no part of their duty to argue the case for this bill in their report, they cannot refrain from answering here a question which presents the only objection we have heard raised to this bill, namely, Will not these troops provided for by this bill be too savage, and degrade the service of the United States to the level of private vengeance? We will answer that question with another: Does any man deny to the settler on the frontier the right to defend himself, his wife, child, and home against the stealth and cunning of a diabolical murderer? Self-preservation has the sanction of God and man alike, and unless the opponents of this measure can show that these settlers are not entitled to the benefit, as against savages, of the *first law*, then we submit that they should borrow no trouble about extermination. These settlers want the blood of the savage only upon one condition, and that is when it is necessary to shed his blood in order to save the life and honor of wife or child. If the Indian will not submit, and cease from pillage and murder, then his blood is upon his own head. If the savage brings on a war of extermination, it is not the fault of the defenseless white men of the frontier. What these Territories ask is protection. That protection it is one of the ends and duties of Government to give, and we recommend the passage of this bill as a means to that end.

ING OF TWO REGIMENTS IN THE TERRITORIES.

23, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

ELE, from the Committee on Military Affairs, submitted the following as the

# VIEWS OF THE MINORITY:

[To accompany bill H. R. 5867.]

inority of the Committee on Military Affairs, to whom was re-
Iouse bill 5867, dissent from the views of the majority, and re-
t they believe the officers and soldiers of the Regular Army
wn themselves abundantly able to deal with the Indians, as has
ested on many fields, and it is the belief of your minority that
now in the Army some of the best known Indian campaigners
ters, notably Generals Sheridan, Crook, and Miles. The bill, it
your minority, particularly reflects upon the services of Gen-
ok, and those serving under his command, and in view of the
t he has been sent from Oregon to Arizona, from Arizona to
g, then back to Arizona and New Mexico, because of his pecu-
ess as an Indian fighter, and that in no case has he failed to
ish the result expected, your committee think this seeming re-
merited. It was a well-known fact when the majority report was
at the last of the Indians off the reservations in Arizona had
een forced to return, or hostages to the number of nine had been
d to the command of the late Captain Crawford, U. S. A., as a
ee that those remaining off would return, which it seems to the
ought to be taken as a repeated guarantee of the ability of our
Army to deal with the Indians.

minority of your committee is divided in opinion as to whether
is best to wage a war of extermination on Indians leaving their
ions; but if such a war is thought best, an intimation is all the
equires, and the object will be as speedily obtained, at least in
ion of your minority, as it could or would be by regiments espe-
listed for that purpose.

ill proposes that in addition to wagons now provided for the
l troops, a sufficient number of pack animals shall be furnished,
not limited. That at least two horses shall be furnished to each
nd soldier, and when a command runs short of this number, au-
s given to any quartermaster or acting quartermaster, to supply
cy from any herd accessible, whether belonging to the United
r not, an unusual power in time of peace, and would, in all proba-
esult in an indebtedness far reaching, and, judging from the past,
nding. The bill says to our regular soldiers, many of them wear-

ing scars from Indian arrows and bullets, brave and true men, with years of experience, your services have proved a failure, but for ornamental purposes we will retain your services at $13 per month, and will enlist competent settlers residing in the Territories, to do our fighting and pay them $30 per month.

The majority assign as a reason for this increase that you cannot get competent men to leave their homes in the Territories for a less sum, and at the same time would have the House understand, that the frontiersman would make a more competent soldier because of the desire to defend his home. If he so desires why not do so at $13 per month, or because of his desire. It is the opinion of your minority that the Army as at present managed will (in a humane way so far as it is possible) deal fairly, firmly, and as promptly as it is possible with the Indians requiring subjugation from time to time unforeseen, and that the authority now reposed in the Secretary of War allowing him to employ one thousand Indian scouts when he deems it advisable, is all that is necessary or required to insure a chastisement of the Indians leaving their reservations.

The committee here inserts the military history of General Crook in brief:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
*Washington, January* 16, 1886.

Statement of the military service of George Crook, of the United States Army, compiled from the records of this office.

He graduated at the United States Military Academy July 1, 1852, and has held all the grades of a commissioned officer from brevet second lieutenant to his present rank of brigadier-general, U. S. Army. He also attained the rank of major-general of volunteers during the late war. He served on frontier duty in California, Oregon, and Washington Territory from 1852 to 1861, being on the Rogue River expedition in 1856 and in command of the Pitt River expedition in 1857, having been wounded with an arrow in a skirmish with the Pitt River Indians June 10, 1857. He also participated in the Yakima expedition in 1858. During the war of the rebellion he was colonel of the Thirty-sixth Ohio Infantry from September 12, 1861, to September 7, 1862, when appointed brigadier-general of volunteers. He was wounded in the action at Lewisburg, W. Va. He commanded a brigade in the Northern Virginia and the Maryland campaigns of 1862, being engaged at South Mountain and Antietam, Md.; also in the operations in Western Virginia from October, 1862, to March, 1863; commanded a cavalry division in the operations in the Tennessee campaign, being engaged at Tullahoma, Hoover's Gap, Chickamauga, and in the pursuit of the Confederate General Wheeler.

In February, 1864, he was ordered to Western Virginia, and commanded a division in the Department of West Virginia to September 1, 1864, making constant raids and participating in numerous actions. On September 1, 1864, he assumed command of the Department of West Virginia, participating in the Shenandoah Valley (Virginia) campaign, and was engaged at Berryville, Fisher's Hill, Strasburg, Opequon, and Cedar Creek. While in command of the Department of West Virginia he was taken prisoner February 21, 1865, at Cumberland, Md. He resumed command of the department March 20, 1865, but was relieved March 22, 1865, and ordered to the Army of the Potomac, where he commanded the Second Cavalry Division, under General Sheridan, in the operations around Richmond, Va., which terminated in the surrender of the army under General R. E. Lee.

Since the close of the war he has commanded the districts of Owyhee, Boisé, and the lakes, in Idaho and Oregon, in 1867–'68, and was actively engaged in operations against hostile Indians. He commanded the Department of the Columbia from May 23, 1868, to August 8, 1870, and was engaged in quelling the disturbances with Indians in that department.

He commanded the Department of Arizona from June 4, 1871, to March 25, 1875, being actively engaged in the operations against the Apache Indians in Arizona and on the borders of New Mexico, following the hostiles into Old Mexico, capturing many and compelling them to sue for peace.

He commanded the Department of the Platte from April 27, 1875, to August 30, 1882, during which time he was, in 1876, actively engaged in the field against the Sioux Indians, and in the winter of 1876–'77 commanded the Powder River expedition, which

quelling the Indian disturbances. Since September 4, 1882, he has been d of the Department of Arizona, being almost constantly engaged in field against the hostile Apache Indians in Arizona and New Mexico.

R. C. DRUM,
*Adjutant-General.*

GEO. W. STEELE.
EDW'D S. BRAGG.
FRANK L. WOLFORD.
B. M. CUTCHEON.
C. M. ANDERSON.
EGBERT L. VIELE.
J. WHEELER.

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 532.

# OSCAR EASTMOND AND JAMES W. ATWILL.

BRUARY 16, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

:. STEELE, from the Committee on Military Affairs, submitted the following

## REPORT:

[To accompany bill S. 214.]

The Committee on Military Affairs, to whom was referred House l No. 40, having carefully considered the same, adopt the Senate rert herewith, and ask to be discharged from the further consideration the House bill and to report back Senate bill No. 214, which has been erred to the committee, with the recommendation that it do pass.

[Senate Report No. 24, Forty-ninth Congress, first session.]

*e Committee on Military Affairs, to whom was referred bill S. 214, have duly considered the same, and submit the following report:*

n the Forty-seventh Congress the Senate Committee on Military Affairs favorably orted a similar bill. (See S. 1790, and S. Report No. 936, Forty-seventh Congress.) n the Forty-eighth Congress a precisely similar bill was reported favorably by the ne committee and passed by the Senate February 11, 1884, but failed in the House. e S. 368, and S. Report 30, Forty-eighth Congress.)

Your committee adopt the report submitted in last Congress, and recommend the sage of the bill.

A precisely similar bill was introduced in the Senate on April 26, 1882, and referred the Committee on Military Affairs, and that committee, on January 23, 1883, subtted the following favorable report:

"This bill proposes simply to commission, through the Secretary of War, Oscar stmond as colonel, and James W. Atwill as lieutenant-colonel, of the First Regiint of North Carolina Volunteers in the late war, to date June 20, 1865, and then to ster them out as of date June 27, 1865, without any pay or compensation of any nd.

"The accompanying communications from the War Department fully explain the asons why they were not at the time duly commissioned and mustered as such lonel and lieutenant-colonel, and then mustered out as such. The fault was not eirs. It was a mere omission in transmitting their recommendations for promotions. e vacancies existed. They were qualified to fill the vacancies by promotion and re duly recommended therefor, but in the hurry of the times the orders were not eived until after the regiment had been mustered out, and they were mustered ou the grades just below. No compensation or pay is sought and none is given by the l. It is a matter of pride and importance to them. There can be no objection to s rightful recognition.

"Your committee attach the War Department communications hereto, and recomnd the passage of the bill."

WAR DEPARTMENT,
ADJUTANT-GENERAL'S OFFICE,
*Washington, January* 16, 1879.

SIR: I have the honor to return herewith the letter of Hon. Francis M. Cockrell, United States Senator, in which he requests copies of all orders, appointments, letters, &c., issued, made, or written by General Innis N. Palmer, commanding Beaufort, N. C., relating to the promotions of Major Atwill as lieutenant colonel, First North Carolina Volunteers, lso the dates of the respective discharges of Colonel McChesney and Lieutenant-Colonel Strong, of that regiment, and in reply thereto, to inclose herewith the information requested and copies of the correspondence referred to.

To make the case plain, the following summary of this correspondence and facts is given:

Upon the acceptance of the resignation of Lieutenant-Colonel Strong, First North Carolina Volunteers, May 12, 1865, Col. J. M. McChesney, of that regiment, recommended the following appointments: 1st. Capt. Oscar Eastmond to be lieutenant-colonel, *vice* Strong, resigned; 2d. Capt. James N. Atwill to be major, *vice* Graves, mustered out.

Colonel McChesney's recommendations were approved by Brigadier-General Palmer and forwarded to this office by Major-General Schofield, commanding Department of North Carolina.

On receipt of the communication referred to, Captains Eastmond and Atwill were authorized to be mustered in the advanced grades by letter to General Schofield, May 29, 1865. On the 12th of June, 1865, under the authority conferred, Captain Eastmond was mustered in as lieutenant-colonel and James W. Atwill as major, the musters in each instance to date from June 5, 1865.

It would appear, however, that prior to the receipt of the authority referred to, Colonel McChesney's resignation was accepted by this office May 13, 1865, when, to supply the new vacancy thereby created, General Palmer, under date of May 30, 1865, recommended that Eastmond be promoted colonel, and Atwill lieutenant-colonel. General Palmer's communication was forwarded by General Schofield, but on its receipt was returned June 10, 1865, for a compliance with circular No. 62, series of 1864, from this office, copy herewith. On June 24, 1862, Maj. Gen. J. D. Cox, who had succeeded Major-General Schofield in command of the Department of North Carolina, returned General Palmer's letter with the data rendered necessary by the circular in question, but prior to its receipt at this office the First North Carolina Volunteers had been mustered out of service, *i. e.*, on June 27, 1865, and Major Atwill was mustered out with it.

The letter recommending Major Atwill for promtoion was not received back until July 3, 1865, when, through a clerical error, he was authorized to be mustered in as lieutenant-colonel, First North Carolina Volunteers, by letter from this office of July 6, 1865.

The regiment, however, having been mustered out, the authority erroneously conferred was not exercised or executed.

Attention is respectfully invited to the inclosed copy of a letter from this office relating to the case of Major Atwill, in which is recited the reasons the major has not been considered entitled to recognition or muster as lieutenant-colonel, First North Carolina Volunteers.

I have the honor to be, sir, very respectfully, your obedient servant,

E. D. TOWNSEND,
*Adjutant-General.*

The Hon. SECRETARY OF WAR.

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[Circular Letter No. 62.]

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
*Washington, August* 3, 1864.

To the COMMANDING GENERAL:

SIR: By direction of the Secretary of War, I have the honor to communicate the following regulations, relative to the appointment of officers for regiments or organizations of white troops recruited in the rebel States, to govern in lieu of any and all instructions or authority heretofore granted.

NEW ORGANIZATIONS.

1. In recruiting new troops, the commanding general who may have received authority to recruit the organization will forward his list of nominations for commissioned officers direct to the Adjutant-General of the Army, when, if approved by the

President, the appointments, or, in lieu thereof, authority for the musters-in will be issued; the rank and commencement of pay to take effect from the date of muster into service by the duly-appointed commissary of musters, or mustering officer, under whose control the regiment or other organization may be. The lists, in all cases of company officers, must give the companies, respectively, with which the intended officers are to serve. No provision herein contained will be construed as authorizing the muster-in of an individual, unless there is a command for him, as required by paragraph 85, Mustering Regulations.

OLD ORGANIZATIONS.

2. For old organizations, as fast as vacancies occur among the field and staff, or company officers thereof, names of individuals to fill them will be forwarded, by the commanding general of the department in which the organization may be serving, direct to the Adjutant-General of the Army. The applications must state, in each case, the strength of the command with which the party is to be mustered; in the case of a company officer, the letter of the company must be given. If the nomination is confirmed by the President, notification thereof and authority for the muster-in will be issued through the Adjutant-General's Office.

3. No provision herein contained will be construed as doing away with existing regulations governing the subject of musters.

I am, sir, very respectfully, your obedient servant,

E. D. TOWNSEND,
*Assistant Adjutant-General.*

BEAUFORT, N. C., *May* 15, 1865.

GENERAL: I have the honor to request that the following promotions be made in the First North Carolina Volunteers:

Capt. Oscar Eastmond, Company G, to be lieutenant-colonel, *vice* Strong, resigned.

Capt. James W. Atwill to be major, *vice* Graves, mustered out.

I am, general, very respectfully, your obedient servant,

J. M. McCHESNEY,
*Colonel First North Carolina Volunteers.*

Brig. Gen. L. THOMAS,
*Adjutant-General, U. S. A.*

HEADQUARTERS DISTRICT OF BEAUFORT,
*New Berne, May* 17, 1865.

Respectfully forwarded approved.

I. N. PALMER,
*Brigadier-General.*

HEADQUARTERS DEPARTMENT OF NORTH CAROLINA,
ARMY OF THE OHIO,
*May* 19, 1865.

Respectfully forwarded to the Adjutant-General of the Army.

J. M. SCHOFIELD,
*Major-General, Commanding.*

HEADQUARTERS DISTRICT OF BEAUFORT,
*New Berne, May* 30, 1865.

GENERAL: I have the honor to recommend the following promotions in the First North Carolina Union Volunteers:

* * * * * * *

Capt. J. W. Atwill to be lieutenant-colonel, *vice* Strong, resigned.

* * * * * * *

I am, general, very respectfully, your obedient servant,

I. N. PALMER,
*Brigadier-General, United States Volunteers, Commanding.*

Brig. Gen. L. THOMAS,
*Adjutant-General, United States Army, Washington, D. C.*

HEADQUARTERS DEPARTMENT OF NORTH CAROLINA,
ARMY OF THE OHIO,
*Raleigh, N. C., June* 2, 1865.

Respectfully forwarded to the Adjutant-General of the Army.

J. M. SCHOFIELD,
*Major-General, Commanding.*

OSCAR EASTMOND AND JAMES W. [illegible]

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
*June* 10, 1865.

Respectfully returned to Major-General Schofield.
The within application is not in accordance with Circular No. 62, series of 1864, from this office, and no action can therefore be taken.
By order of the Secretary of War.

THOMAS M. VINCENT,
*Assistant Adjutant-General.*

HEADQUARTERS DEPARTMENT OF NORTH CAROLINA,
ARMY OF THE OHIO,
*Raleigh, N. C., June* 20, 1865.

Respectfully returned to Brig. Gen. I. N. Palmer, with reference to indorsement from War Department, Adjutant-General's Office.
By order of Major-General Schofield.

J. A. CAMPBELL,
*Lieutenant-Colonel and Assistant Adjutant-General.*

HEADQUARTERS RENDEZVOUS,
NEW BERNE, N. C.,
*June* 21, 1865.

Respectfully returned to the War Department, with copy of morning report inclosed.
A copy of the morning report of the regiment was forwarded with this communication, but appears to have been lost in transit.

I. N. PALMER,
*Brevet Major-General, Commanding.*

HEADQUARTERS DEPARTMENT OF NORTH CAROLINA,
ARMY OF THE OHIO,
*Raleigh, N. C., June* 24, 1865.

Respectfully forwarded to the Adjutant-General of the Army, with reference to indorsement of General Palmer.

J. D. COX,
*Major-General, Commanding.*

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WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
*Washington, December* 17, 1878.

SIR: I have the honor to return herewith the communication of Hon. F. M. Cockrell, United States Senator, transmitting the claim of Maj. James W. Atwill, late of the First Regiment North Carolina Infantry Volunteers, for recognition as lieutenant-colonel of said regiment, and to report that, under War Department General Order No. 48 of 1863, no officer could be mustered into an advanced grade until after the receipt of his commission or appointment from competent authority; a vacancy must also exist for him.

The records of this office show that prior to the issue of his appointment as lieutenant-colonel by the War Department, July 6, 1865, Major Atwill's command was, on June 27, 1865, mustered out of the service, and he discharged with it as major. Further, the records show that no vacancy existed for him in the grade claimed, Lieut.-Col. Oscar Eastmond having occupied that position to June 27, 1865, date of muster-out of the regiment.

The inclosed printed slip contains the orders (paragraphs marked) covering his case, under which he could not in any event be mustered in prior to the date a vacancy existed for him.

I have the honor to be, sir, very respectfully, your obedient servant,

E. D. TOWNSEND,
*Adjutant-General.*

The Hon. SECRETARY OF WAR.

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
*January* 16, 1879.

Official copies respectfully furnished.

SAM. BRECK,
*Assistant Adjutant-General.*

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
*Washington, July* 6, 1865.

GENERAL: Upon the recommendation of Bvt. Maj. Gen. I. N. Palmer, commanding rendezvous, approved at your headquarters, the following appointments are announced in the First North Carolina Volunteers, viz:

Maj. Oscar Eastmond to be colonel, *vice* McChesney, resigned.

Capt. J. W. Atwill to be lieutenant-colonel, *vice* Strong, resigned.

Capt. G. W. Graham to be major, *vice* Eastmond, promoted.

This will be authority for the muster-in of the officers, in their advanced grades, to date from receipt thereof.

I am, general, very respectfully, your obedient servant,

THOMAS M. VINCENT,
*Assistant Adjutant-General.*

Major-General Cox,
*Commanding Department of North Carolina, Army of the Ohio, Raleigh, N. C.*

STATE OF MISSOURI,
*County of Buchanan, sct:*

James W. Atwill, being duly sworn, deposes and says that he was appointed and mustered in as major of the First Regiment of North Carolina Volunteers, on the 29th day of May, 1865, said muster to date from the 5th day of June, 1865; that prior to the receipt, at New Berne, in the State of North Carolina, of the authority for such muster, to wit, on the 13th day of May, 1865, the resignation of Col. J. M. McChesney, of said regiment, was accepted, and General Innis N. Palmer, under date of May 30, 1865, recommended the promotion of Lieut. Col. Oscar Eastmond as colonel and of this affiant as lieutenant-colonel of said regiment, which recommendation was approved and forwarded by General Schofield, major-general commanding, but, on its receipt at the office of the War Department at Washington, June 10, 1865, it was returned for a compliance with the requirements of Circular No. 62, series of 1864; that on June 24, 1865, Maj. Gen. J. D. Cox, who had succeeded General Schofield in the command of the Department of North Carolina, returned General Palmer's letters with the data required by said circular, but prior to its receipt at the office of the Adjutant-General, to wit, on the 27th day of June, 1865, said regiment was mustered out of service; that this affiant, from the time of his recommendation for promotion as lieutenant-colonel, to wit, the 30th day of May, 1865, until said regiment was mustered out, was the acting lieutenant-colonel of said regiment, and afterwards, to wit, on the 6th day of July, 1865, his appointment as lieutenant-colonel was duly announced by letter of that date from Thomas M. Vincent, Assistant Adjutant-General.

JAMES W. ATWILL.

Subscribed and sworn to before the undersigned, a notary public for the county of Buchanan, in the State of Missouri.

In testimony whereof I have hereunto set my hand and affixed my notarial seal, at my office in said county, this 30th day of March, A. D. 1882.

My commission expires November 11, 1882.

[SEAL.]

P. V. WISE,
*Notary Public.*

Your committee have again examined the case and find the foregoing report to be correct, and again recommend that said bill be passed.

TH CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
1st Session. } { No. 533.

# BADGES OF PERSONAL DISTINCTION.

RUARY 16, 1886.—Referred to the Committee of the Whole House and ordered to be printed.

. NEGLEY, from the Committee on Military Affairs, submitted the following

## REPORT:

o accompany bill H. R. 4235, H. Res. 60, and petition of Lieutenant-Colonel Muzzy and others.]

*he Committee on Military Affairs, to whom were referred House bill 4235, H. Res. 60, and petition of Lieutenant-Colonel Muzzy and others, beg leave to submit the following report:*

Each of the foregoing references contains an eloquent appeal to Congress to bestow, in a fitting manner, a badge of personal distinction on e survivors of the Logan Guards, Allen Infantry, Washington Artillery, National Light Infantry, and the Ringgold Light Artillery, volunteer organizations of Pennsylvania, who marched in advance of the her troops to the defense of the capital in April, 1861. A like honor requested by the survivors of the "forlorn hope," formed by General anks preparatory to the storming of Port Hudson, Louisiana, in June, 63.

That it would be an eminently just expression of patriotism and pro-und wisdom for the Government, which owes its existence to the un-ltering loyalty, patriotic zeal, and high moral courage of those who st entered the path of duty in defense of the laws and to preserve e Union in that eventful hour when the nation first realized its peril d its duty, no one will deny; still less will any true friend of liberty lover of his race question the justice or propriety of the Govern-ent rewarding, in a spirit of immeasurable gratitude, the services of e men who knew no sacrifice too great to achieve success for our arms. The inquiry under consideration is, whether, at the present time, the stinction sought for can be granted with impartial discrimination, and hether a votive gift of this character from a great nation would do served honor to the dead as well as to the living, according to the here of action of each individual, not only in the commands enumered, but all others. We fear not. However sacred the duty, it does t lie within the scope of the law, or that of sweet persuasion, to sum-on to an earthly recompense the men who felt the sharp agony of ath on the battle-field, or who perished in pitiless despair from the vagery of the prison pen, or who felt the crimson current of life slowly bing away, without a soothing hand to bind their wounds or moisten eir feverish lips with a drop of water. Neither can we deal with the dividuality of the many who disappeared on the march, beneath swift aters, hidden by the smoke of the skirmish line, and, beyond the sim-e word "missing," have passed into the realm of the unknown.

A long sweep of years have disappeared in the abyss of time since that golden-hued morning when the angel of Peace stood in the dawn of the new era and showered her benign blessings upon those who lost and those who won. The battle-riven standards, which were hallowed by the love and devotion of the old soldiers, have been enwrapped with tender care and folded away among the nation's heir-looms; but why should any member of the old guard entertain the fear of being forgotten? The aims, the statesmanship, and martial dignity of a nation are nothing more than a truthful reflection of the lives and meritorious deeds of the men who stood in the ranks of its defenders. The historian who gleans after the tempest of battle, and who lays his sheaves of homage on the altar of truth, is the only faithful artificer of the personnel of the contending armies. The only inheritance a brave soldier can translate into immortality is the record of his services in defense of truth, liberty, and humanity. Every life given up in obedience to the commands of the state, is another golden thread added to the warp Destiny is busily weaving for the nation. The irresistible and ever-expanding influences of a higher civilization and a broader Christianity sown in the conscience of the American people by the war, will sanctify and glorify the services of the men who solved by the stern arbitrament of the sword, whether a popular Government had the inherent power to resist and survive the greatest civil war since the mediæval ages. The memory of the chivalrous sons of every period live in deeds and not in testimonials. The brief inscription, "Stranger, go tell the Lacedæmonians that we lie here obedient to their commands," has remained like a perennial monument on the plains of history, when all the other trophies set up to honor Leonidas and his forlorn hope have been washed away by the flood of centuries. In after years, when the pride of race, love of country, and the convictions which will flower and fruit on our tree of knowledge shall subdue the demons of ignorance and prejudice, each generation will thank the Giver of all Good that the Union was saved and the "Government of the people" was preserved for the people. In that day, the names appended to the petitions before us and those of their comrades will appear in letters of living light.

In conclusion, we respectfully recommend that the bills and petitions herein referred to be laid upon the table, and that this, the unanimous report of the Committee on Military Affairs, be spread on the pages of the Congressional Record.

C

9TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 534.

# OBLIGATION TO CARRY THE UNITED STATES MAILS.

FEBRUARY 16, 1886.—Referred to the House Calendar and ordered to be printed.

r. RIGGS, from the Committee on the Post-Office and Post-Roads, submitted the following

## REPORT:

[To accompany bill H. R. 4864.]

*he Committee on the Post-Office and Post-Roads, to whom was referred House bill 4864, submit the following report:*

On or about the 3d day of March, 1862, the owner of one of the prinipal lines of American steamships, which had before then carried the Jnited States mails, gave the Post-Office Department formal notice that fter the 21st of that month he would not take the mails, and on the day irst above named the Hon. Montgomery Blair, then Postmaster-Genral, communicated that fact to the chairmen of the Senate and House Committees on the Post-Office and Post-Roads, and recommended that Congress adopt measures to compel that and all other lines of steamers eaving our ports to take mails as the condition of their clearance upon such terms as were then or might thereafter be allowed by law. In his annual report for the fiscal year ended June 30, 1863, he renewed the recommendation, and, following his suggestions, Congress passed an act containing provisions of the character recommended, which was approved March 25, 1864. The provisions of law so adopted will be found in section 4203 of the Revised Statutes. A section upon the same subject, though a little different in its terms, was contained in the "act to revise, consolidate, and amend the statutes relating to the Post-Office Department," approved June 8, 1872; and these latter provisons will be found in section 3976 of the Revised Statutes. All these statutory equirements remained in force over twenty-one years, and under their peration our foreign mails were carried and the service was satisfacorily performed.

By the twenty-third section of "an act to remove certain burdens om the American merchant marine," passed in the first session of the orty-eighth Congress, all these provisions were repealed, and the reaaling clause took effect on the 1st day of April, 1885. Immediately, not long after this date, all lines of steamships sailing under the nited States flag except one refused to carry the mails for the compenation, which, under the law, the Postmaster-General could grant, and uch annoyance and embarrassment was experienced by the Department that account. The circumstances attending that embarrassing expeence are of such recent occurrence and so well known and understood at it is not deemed necessary to enter into details in this report.

For the purpose of providing against a recurrence of that experience e Posmaster-General, in his annual report for the fiscal year ended

lowed by law, or by the Post-Office Department in pursuance
and therefore your committee recommend that the bill do pass,
following amendments:

In the third line strike out the word "every" and insert "all
the letter "s" to each of the words "vessel" and "master" in t
line. And between the word "vessel" and the word "of," in sa
insert the words "owned by citizens," so that said third line sh
"That all vessels owned by citizens of the United States and
ters thereof."

And amend the title so that it shall read as follows:

"A bill to require vessels owned by citizens of the United S
carry the mails."

C

# ATION TO CARRY THE UNITED STATES MAILS.

Y 16, 1886.—Referred to the House Calendar and ordered to be printed.

ROWS, from the Committee on Post-Offices and Post-Roads, submitted the following

# VIEWS OF THE MINORITY:

[To accompany bill H. R. 4864.]

ndersigned members of the Committee on Post-Offices and ds desire to present the following considerations which induce issent from the views of the majority in reporting favorably l 4864.

proceeding to a statement of the objections of the minority to ge of this measure, it is desirable to briefly review the legisla- efore had touching the subject-matter of this bill.

3976 of the Revised Statutes of 1878 is as follows:

er of any vessel of the United States bound from any port therein to any t, or from any foreign port to any port of the United States, shall, before receive on board and securely convey all such mails as the Post-Office De- r any diplomatic or consular officer of the United States abroad, shall he shall promptly deliver the same, on arriving at the port of destination, er officer, for which he shall receive two cents for every letter so delivered; he entry of every such vessel returning from any foreign port, the master ll make oath that he has promptly delivered all the mail placed on board before clearance from the United States; and if he shall fail to make such ssel shall not be entitled to the privileges of a vessel of the United States.

egoing provisions were enacted in 1864.

uently, and in 1877, it was provided as follows (section 4203 of ed Statutes of 1878):

ls belonging to citizens of the United States, and bound from any port in States to any foreign port, or from any foreign port to any port in the tes, shall, before clearance, receive on board and securely convey all such e Post-Office Department of the United States, or any minister, consul, or agent of the United States abroad shall offer, and shall promptly deliver the proper authorities on arriving at the port of destination, and shall such service such reasonable compensation as may be allowed by law.

act entitled "An act to remove certain burdens on the Amer- hant marine and encourage the American foreign carrying l for other purposes," approved June 26, 1884, it was provided, her things, as follows:

ions thirty-nine hundred and seventy-six and forty-two hundred and three sed Statutes of the United States, and all other compulsory laws and parts t oblige American vessels to carry the mails to and from the United States or that prevent the clearance of vessels until they have taken mail mat- rd, be, and the same are hereby, repealed, but such repeal shall not take the first day of April, eighteen hundred and eighty-five. (U. S. Statutes ol. 23, chap. 121, sec. 23.)

In order to meet this new condition of things and enable t
master-General to provide for the transportation of the forei
and to pay an adequate compensation therefor, the Forty-eigl
gress, in "an act making appropriation for the service of t
Office Department for the fiscal year ending June 30, 1886,
other purposes," approved March 3, 1885, made the follow
vision:

For transportation of foreign mails, including railway transit across th
of Panama, $800,000. And the Postmaster-General is hereby authorized to
contracts for the transportation of any part of said foreign mails, after le
tisement, with the lowest responsible bidder, at a rate not exceeding 50 ce
tical mile on the trip each way actually traveled between the terminal p
vided that the mails so contracted shall be carried on American steamship
the aggregate of such contracts shall not exceed one-half of the sum her
priated.

This appropriation became available on the 1st day of Ju
and was supposed, it is presumed, to be ample to meet the ex
of this branch of the postal service for the fiscal year ending
1886.

It will be observed, that out of the sum total of this appropr
$800,000, one-half, or $400,000, was specially set apart to be use
Postmaster-General in carrying out such contracts as might be
into with American steamships, in conformity with the prov
such act.

While this appropriation of $400,000 became available on
day of July, 1885, yet the Postmaster-General, as appears fro
nual report, and for reasons therein stated, has wholly neglecte
fused, not only to contract with any American steamship for
the foreigd mails in conformity with said act, but has decline
such appropriation or any portion thereof for the purposes
named. As a result of this action on the part of the Postmas
eral, and in consequence of the inadequate compensation now
by law, several of the American steamships have declined to c

be allowed by law therefor, or by the Post-Office Department in pursuance of r of Congress; and upon the entry of every such vessel returning from any port, the master thereof shall make oath that he has promptly delivered all is placed on said vessel before clearance for the United States; and in case of lation hereof such vessel shall not be entitled to the privileges of a vessel of ted States.

etermining the scope of that provision of this bill, which declares he vessel so impressed "shall receive for such service such com- tion as may be allowed by law, or by the Post-Office Department, suance of any law of Congress," it must be considered in connec- ith sections 4007 and 4009 of the Revised Statutes 78, which are ows:

4007. The Postmaster-General may, after advertising for proposals, enter into ntract for the transportation of the mail between the United States and any country whenever the public interests will thereby be promoted.

4009. For transporting the mail between the United States and any foreign r between ports of the United States touching at a foreign port, the Postmas- neral may allow as compensation, if by a United States steamship, any sum ceeding the sea and United States inland postage, and if by a foreign steam- or by a sailing vessel, any sum not exceeding the sea postage on the mail so ported.

r virtue of section 4009 it will be seen that the Postmaster-General stricted in the matter of compensation to be allowed American nships for carrying the foreign mails, to the sea and inland postage he mails so carried.

follows, therefore, if the bill of the committee should become a law, rican steamships are to be denied a clearance and the right to carry American flag, unless they will consent to transport the United s mails for a sum not exceeding the sea and inland postage on the so carried, whatever may be the distance or expense attending service. The sea and inland postage is the same whether the let- r package is carried 500 miles or 5,000, and under the operation is bill, in connection with existing law, the Postmaster-General allow the same compensation for transporting the mails from Key to Havana as from San Francisco to China. He can allow the sea inland postage from Key West to Havana; he can allow no more San Francisco to China.

should be remembered in this connection that while the Postmaster- eral in fixing the maximum compensation to be allowed American nships cannot exceed the sea and inland postage, yet there is no tation or restraint upon his discretion in the minimum amount he allow; so that by the enactment of this measure the Postmaster- eral will be clothed with power to force American steamships to the United States mails for any amount less than the sea and in- postage, however meagre, or cease to carry the American flag. minority cannot believe that Congress ought to confer upon the master-General such arbitrary power or strike so deadly a blow at eeble and struggling marine.

t aside from all considerations of national pride and commercial ntage, and waiving also for the time being the question of the con- tionality of the bill of the committee, concerning which there may rious doubt, it is submitted that the sea and inland postage to h the Postmaster-General is restricted in paying the American nships for transporting the United States mails to foreign ports is ly inadequate for such service. Whether we measure the compen- n thus provided by the amount paid for the inland and coast- service, by railway, star route, or steamboat, or by the standard

adopted by other nations for services of like character, its insuffic becomes equally apparent.

The following table, taken from the Annual Report of the Postm General, page 577, discloses the compensation paid the railroad co nies of the United States for the transportation of the mails for a s of years:

*Comparative statement of the railway mail service,* 1830 *to* 1885.

| Fiscal year ending June 30— | Miles of railroad upon which mail was carried. | Miles of annual transportation of mail by railroads. | Annual cost of railroad mail transportation. | Av annu per of m mail port |
|---|---|---|---|---|
| 1830 | | | | |
| 1831 | | | | |
| 1832 | | | | |
| 1833 | | | | |
| 1834 | 78 | | | |
| 1835 | | | | |
| 1836 | | *1, 878, 296 | | |
| 1837 | 974 | *1, 793, 024 | $*307, 444 | |
| 1838 | | *2, 413, 090 | *410, 48 | |
| 1839 | | *3, 396, 055 | *520, 692 | |
| 1840 | | *3, 889, 053 | *595, 353 | |
| 1841 | | *3, 946, 450 | *585, 843 | |
| 1842 | 3, 091 | *4, 424, 262 | 432, 568 | |
| 1843 | | *5, 692, 402 | *733, 687 | |
| 1844 | 3, 714 | *5, 747, 355 | 531, 752 | |
| 1845 | | *6, 484, 592 | *843, 430 | |
| 1846 | 4, 092 | *7, 781, 828 | *870, 570 | |
| 1847 | 4, 402 | 4, 170, 403 | 597, 475 | |
| 1848 | 4, 735 | 4, 327, 400 | 584, 192 | |
| 1849 | 5, 497 | 4, 861, 177 | 635, 740 | |
| 1850 | 6, 886 | 6, 524, 593 | 818, 227 | |
| 1851 | 8, 255 | 8, 364, 503 | 985, 019 | |
| 1852 | 10, 146 | 11, 082, 768 | 1, 275, 520 | |
| 1853 | 12, 415 | 12, 986, 705 | 1, 601, 329 | |
| 1854 | 14, 440 | 15, 433, 389 | 1, 758, 610 | |
| 1855 | 18, 333 | 19, 202, 469 | 2, 073, 089 | |
| 1856 | 20, 323 | 21, 809, 296 | 2, 310, 389 | |
| 1857 | 22, 530 | 24, 267, 944 | 2, 559, 847 | |
| 1858 | 24, 431 | 25, 763, 452 | 2, 828, 301 | |
| 1859 | 26, 010 | 27, 268, 384 | 3, 243, 974 | |
| 1860 | 27, 129 | 27, 653, 749 | 3, 349, 662 | |
| 1861 | †22, 018 | †23, 116, 823 | †2, 543, 709 | |
| 1862 | †21, 338 | †22, 777, 219 | †2, 498, 115 | |
| 1863 | †22, 152 | †22, 871, 558 | †2, 538, 517 | |
| 1864 | †22, 616 | †23, 301, 942 | †2, 567, 044 | |
| 1865 | †23, 401 | †24, 087, 568 | †2, 707, 421 | |
| 1866 | 32, 092 | 30, 609, 467 | 3, 391, 592 | |
| 1867 | 34, 015 | 32, 437, 900 | 3, 812, 600 | |
| 1868 | 36, 018 | 34, 886, 178 | 4, 177, 126 | |
| 1869 | 39, 537 | 41, 399, 284 | 4, 723, 680 | |
| 1870 | 43, 727 | 47, 551, 970 | 5, 128, 901 | |
| 1871 | 49, 834 | 55, 557, 048 | 5, 724, 979 | |
| 1872 | 57, 911 | 62, 491, 749 | 6, 502, 771 | |
| 1873 | 63, 457 | 65, 621, 445 | 7, 257, 196 | |
| 1874 | 67, 734 | 72, 460, 545 | 8, 589, 653 | |
| 1875 | 70, 083 | 75, 154, 910 | 9, 216, 518 | |
| 1876 | 72, 348 | 77, 741, 172 | 9, 543, 134 | |
| 1877 | 74, 546 | 85, 358, 710 | 8, 053, 936 | |
| 1878 | 77, 120 | 92, 120, 395 | 9, 566, 505 | |
| 1879 | 79, 991 | 93, 092, 992 | 9, 792, 589 | |
| 1880 | 85, 320 | 96, 497, 463 | 10, 648, 986 | |
| 1881 | 91, 569 | 103, 521, 229 | 11, 963, 117 | |
| 1882 | 100, 563 | 113, 995, 318 | 13, 127, 715 | |
| 1883 | 110, 208 | 129, 198, 641 | 13, 887, 800 | |
| 1884 | 117, 160 | 142, 541, 392 | 15, 012, 603 | |
| 1885 | 121, 032 | 151, 912, 140 | 16, 627, 983 | |

* Including steamboat service; no separate report.
† Service suspended in Southern States.
The cost of the service is taken from the reports of the Second Assistant-Postmaster-Gener

›age 260 of the same report, a tabulated statement is presented cost of transporting the mails over the star and steamboat routes United States for the fiscal year ending June 30, 1885, as follows:

*Table of inland mail service in operation June* 30, 1885.

| tates and Territories. | Length of routes, and annual cost in each class of service. | | | | | |
|---|---|---|---|---|---|---|
| | Star. | | Annual transportation (star service). | Steamboat. | | Annual transportation by steamboat. |
| | *Miles.* | | *Miles.* | *Miles.* | | *Miles.* |
| ..... | 3, 650 | $91, 468 | 1, 932, 691 | 413 | $2, 877 | 64, 116 |
| ıpahire..... | 1, 262 | 35, 323 | 716, 880 | 99 | 2, 525 | 19, 599 |
| ..... | 1, 528 | 42, 680 | 911, 820 | ..... | ..... | ..... |
| ısetts ..... | 1, 231 | 82, 490 | 1, 018, 312 | 79 | 11, 494 | 65, 080 |
| ıand ..... | 190 | 10, 679 | 143, 766 | 75 | 11, 393 | 49, 880 |
| ıut..... | 834 | 32, 149 | 578, 708 | ..... | ..... | ..... |
| k ..... | 8, 831 | 298, 241 | 4, 251, 391 | 206 | 10, 179 | 103, 185 |
| ey..... | 897 | 31, 830 | 556, 270 | ..... | ..... | ..... |
| ania ..... | 9, 175 | 249, 447 | 4, 297, 270 | ..... | ..... | ..... |
| ..... | 231 | 6, 625 | 114, 660 | ..... | ..... | ..... |
| l..... | 2, 031 | 66, 880 | 1, 160, 324 | 831 | 13, 178 | 260, 841 |
| ..... | 8, 696 | 129, 122 | 3, 243, 762 | 905 | 44, 172 | 316, 211 |
| ·ginia..... | 5, 679 | 67, 757 | 1, 630, 905 | 88 | 7, 800 | 54, 600 |
| ·olina..... | 9, 729 | 122, 898 | 2, 836, 110 | 425 | 12, 683 | 143, 000 |
| ·olina..... | 3, 905 | 73, 299 | 1, 059, 852 | 51 | 1, 562 | 19, 894 |
| ..... | 6, 633 | 94, 511 | 1, 874, 058 | 12 | 1, 000 | 7, 488 |
| ..... | 3, 068 | 59, 188 | 812, 752 | 829 | 73, 834 | 352, 942 |
| ..... | 8, 414 | 138, 243 | 2, 488, 119 | 435 | 7, 500 | 72, 202 |
| pi ..... | 5, 621 | 91, 550 | 1, 560, 648 | 499 | 5, 900 | 64, 636 |
| e ..... | 8, 402 | 123, 005 | 2, 694, 159 | 287 | 6, 143 | 72, 176 |
| ..... | 7, 807 | 128, 234 | 2, 657, 077 | 627 | 36, 599 | 318, 912 |
| ..... | 6, 164 | 162, 262 | 2, 866, 111 | 254 | 18, 111 | 197, 028 |
| ..... | 4, 442 | 92, 864 | 1, 741, 571 | ..... | ..... | ..... |
| ..... | 4, 429 | 132, 652 | 1, 818, 219 | ..... | ..... | ..... |
| ..... | 4, 577 | 118, 532 | 1, 735, 019 | 258 | 10, 737 | 108, 402 |
| n ..... | 5, 194 | 101, 963 | 1, 697, 145 | ..... | ..... | ..... |
| a ..... | 4, 715 | 85, 753 | 1, 219, 550 | ..... | ..... | ..... |
| ..... | 5, 214 | 103, 650 | 1, 873, 922 | ..... | ..... | ..... |
| ..... | 10, 115 | 187, 765 | 3, 405, 891 | 263 | 14, 514 | 82, 056 |
| ..... | 7, 426 | 120, 034 | 2, 206, 495 | 1, 475 | 76, 954 | 287, 378 |
| ..... | 3, 873 | 74, 547 | 1, 065, 821 | 974 | 84, 742 | 263, 761 |
| ..... | 13, 269 | 293, 813 | 4, 694, 380 | 27 | 600 | 8, 424 |
| ·rritory ..... | 2, 723 | 49, 497 | 748, 644 | ..... | ..... | ..... |
| ..... | 10, 612 | 170, 504 | 3, 575, 220 | ..... | ..... | ..... |
| ..... | 6, 657 | 116, 213 | 2, 009, 807 | ..... | ..... | ..... |
| ..... | 6, 914 | 155, 278 | 2, 010, 896 | ..... | ..... | ..... |
| ..... | 3, 337 | 113, 535 | 1, 183, 002 | ..... | ..... | ..... |
| ..... | 2, 119 | 84, 896 | 785, 887 | ..... | ..... | ..... |
| ..... | 3, 745 | 168, 605 | 1, 313, 680 | ..... | ..... | ..... |
| ico..... | 2, 207 | 79, 366 | 769, 462 | ..... | ..... | ..... |
| ..... | 2, 779 | 122, 624 | 1, 028, 430 | ..... | ..... | ..... |
| ..... | 2, 489 | 106, 428 | 1, 051, 680 | ..... | ..... | ..... |
| ..... | 2, 506 | 132, 852 | 1, 174, 386 | ..... | ..... | ..... |
| ·on ..... | 2, 377 | 82, 524 | 716, 485 | 1, 971 | 72, 588 | 218, 860 |
| ..... | 4, 857 | 140, 240 | 1, 381, 383 | 290 | 13, 087 | 148, 616 |
| ..... | 2, 513 | 109, 803 | 844, 209 | ..... | ..... | ..... |
| ı ..... | 8, 810 | 331, 385 | 3, 562 712 | 624 | 22, 835 | 241, 020 |
| ..... | 345 | 1, 600 | 8, 280 | ..... | ..... | ..... |
| al ..... | 232, 222 | 5, 414, 804 | 83, 027, 321 | 11, 997 | 563, 002 | 3, 540, 607 |

From the foregoing tables it will be seen that for the fiscal yea ing June 30, 1885, the operators of 121,032 miles of railway recei transporting the mails the sum of $16,627,983, or an average of $ to each mile; that the star route service of 232,222 miles yielded contractors thereof the sum of $5,414,804, or an average of $23 mile, and that the coastwise and inland steamboat service of miles was paid the sum of $563,002, or an average of $42.92 pe The foregoing statement may be summarized as follows:

| Service. | Length of routes. | Compensation. | Average sation p |
|---|---|---|---|
| | *Miles.* | | |
| Railways | 121,032 | $16,627,983 | |
| Star routes | 232,222 | 5,414,804 | |
| Steamboats | 11,997 | 563,002 | |

These tables disclosed the further fact that the railways tran the mails during the year a distance of 151,912,140 miles, which annual compensation of $16,627,983, would be an average of 10.9 per mile; that the mails were transported over star routes a d of 83,027,321 miles, for which there was paid the sum of $5,414,80 average of 6.52 cents per mile, and that the total transportation mails by the coastwise and inland steamboat service of 3,540,60 was paid the sum of $563,002, or an average of 15.9 cents per m

The foregoing statement may be tabulated as follows:

| Service. | Total number miles mails transported. | Total compensation. | m |
|---|---|---|---|
| Railway | 151,912,140 | $16,627,983 | |
| Star route | 83,927,321 | 5,414,804 | |
| Steamboat | 2,540,607 | 563,002 | |

The following table, taken from the Postmaster-General's rep nishes a complete exhibit of the service and compensation American lines for transporting the mails to foreign countries year ending June 30, 1885:

| American lines and vessels. | Number of vessels. | Vessels of foreign regi in American lines. | Number of trips made. | Total number of naut miles traveled. | Weight of mails. Letters. | Weight of mails. Papers, &c. | Rates of pay. Letters. | Rates of pay. Papers. | Sea postage. | Sea and inland postage (mated at 5 cents pe grams for letters, an cent per 2 ounces prints). | Sea and inland postage (mated at 5 cents pe grams for letters, or 1 ters to an ounce, a cent per 2 ounces prints). |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | *Grams.* | *Grams.* | *Fr'cs.* | *Cent's* | | | |
| **Pacific Mail Line:** | | | | | | | | | | | |
| China and Japan | 4 | ..... | 18 | 219,240 | 2,143,661 | 14,901,398 | 5 | .50 | $3,506 64 | $10,125 84 | $13,698 62 |
| Hawaii and New Caledonia | 3 | ..... | 13 | ..... | 288,610 | 5,805,521 | 5 | .50 | 892 55 | 1,554 81 | 1,550 02 |
| Panama, &c | 11 | ..... | 63 | 319,940 | 3,789,951 | 52,672,705 | 5 | .50 | *163 78 | 23,167 71 | 29,484 29 |
| Oceanic Steamship Company, Hawaii | 2 | ..... | 24 | 99,792 | 1,262,277 | 11,928,675 | 5 | .50 | 8,817 66 | 6,593 32 | 8,697 08 |
| Occidental and Oriental Line, China and Japan | 3 | 2 | 12 | 146,160 | 1,005,954 | 9,274,338 | 5 | .50 | 2,369 22 | 5,194 38 | 6,859 61 |
| California and Mexico Steamship Company, Mexico | 1 | .... | 12 | 36,480 | 128,147 | 882,533 | 5 | .50 | 2,243 77 | 603 65 | 817 19 |
| New York, Havana and Mexican Line, Cuba, &c | 9 | 5 | 50 | 117,400 | 2,369,923 | 20,161,876 | 5 | .50 | 208 82 | 11,932 11 | 15,881 92 |
| New York and Cuba Mail Line, Cuba, &c | 5 | ..... | 71 | 166,708 | 1,719,310 | 11,580,883 | 5 | .50 | 4,134 13 | 8,047 21 | 10,912 65 |
| Clyde Line, Hayti | 2 | ..... | 17 | 44,710 | 239,150 | 3,345,946 | 5 | .50 | 2,698 93 | 1,466 35 | 1,894 87 |
| United States and Brazil Mail Line, Brazil | 3 | 1 | 13 | 134,004 | 1,046,606 | 11,516,258 | 15 | †1.00 | 553 66 | 5,791 93 | 7,536 19 |
| Red D Line, Venezuela, &c | 7 | 2 | 34 | 208,488 | 760,705 | 6,827,746 | 5 | .50 | 4,210 24 | 3,901 22 | 5,169 04 |
| New Orleans and Central America Line, Nicaragua, &c | 2 | ..... | 15 | 40,500 | 14,985 | 104,025 | 5 | .50 | 1,392 94 | 70 75 | 95 68 |
| Oteri's Pioneer Line, British Honduras | 4 | 2 | 37 | 74,000 | 45,540 | 387,960 | 5 | .50 | 24 50 | 229 39 | 305 25 |
| Morgan Line, Cuba, &c | 4 | ..... | 41 | 30,500 | 185,468 | 347,213 | 5 | .50 | 61 38 | 687 66 | 996 66 |
| Tampa Steamship Company, Cuba | 1 | ..... | 17 | 5,100 | 52,961 | 22,861 | 5 | .50 | 212 48 | 181 10 | 269 37 |
| New Orleans, Honduras, and Guatemala Line, British Honduras. | 1 | .... | 5 | 10,650 | 21,075 | 192,480 | 5 | .50 | 53 31 | 108 74 | 143 86 |
| Royal Mail Line, British Honduras | 3 | ..... | 36 | 76,680 | 313,434 | 2,770,980 | 5 | .50 | 38 91 | 1,598 97 | 2,121 31 |
| Mendoza, Argentine Republic, &c | 1 | ..... | 1 | 12,578 | 14,475 | 213,849 | 10 | .67 | 569 86 | 91 02 | 115 12 |
| Kate Carroll, British Honduras, &c | 1 | ..... | 1 | 2,130 | 435 | 7,810 | 5 | .50 | 76 73 | 8 01 | 3 72 |
| Lizzie Henderson, Cuba | 1 | ..... | 12 | 3,600 | 20,085 | 2,476 | 5 | .50 | 1 17 | 67 44 | 100 89 |
| Christiana, Cuba | 1 | ..... | 2 | 600 | 7,980 | 675 | 5 | .50 | 19 62 | 26 73 | 40 03 |
| Dictator, Cuba | 1 | ..... | 2 | 600 | 4,950 | 6,720 | 5 | .50 | 7 76 | 17 84 | 26 09 |
| Aaron Kingsland, Cuba | 1 | ..... | 3 | 900 | 5,828 | 361 | 5 | .50 | 11 26 | 19 49 | 29 18 |
| Total | 71 | 12 | 499 | 1,750,760 | 15,330,720 | 152,955,289 | ..... | ..... | 5 65 | 81,679 67 | 106,718 64 |
| Total miscellaneous, foreign | ..... | ..... | ..... | ..... | 2,937,318 | 32,311,712 | ..... | ..... | 32,294 97 | 16,254 22 | 21,148 42 |
| Total transatlantic, foreign | ..... | ..... | ..... | ..... | 203,277,240 | 810,311,723 | ..... | ..... | 7,208 69 | 839,653 14 | 1,178,468 76 |
| | | | | | | | | | 270,908 72 | | |

*Inward mails.

†Franc.

*Statement showing all American lines and occasional sailings of vessels to foreign countries, &c.*—Continued.

| American lines and vessels. | Number of vessels. | Vessels of foreign register in American lines. | Number of trips made. | Total number of nautical miles traveled. | Weight of mails. | | Rate of pay. | | Sea postage. | Sea and inland postage (estimated at 5 cents per 15 grams for letters, and 1 cent per 2 ounces for prints). | Sea and inland postage (estimated at 5 cents per 10 grams for letters, or 3 letters to an ounce, and 1 cent per 2 ounces for prints). |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | Letters. | Papers, &c. | Letters. | Papers. | | | |
| | | | | | *Grams.* | *Grams.* | *Per kilo.* | | | | |
| American Steamship Company, Liverpool | 3 | ..... | 19 | 123,956 | 377,615 | 1,891,715 | 3.25 | .10 | $1,416,42 | $1,637 05 | $1,605 58 |
| Total under contract with foreign Governments | ..... | ..... | ..... | ..... | 244,201 | 7,191,597 | ..... | ..... | ..... | 2,255 63 | 2,659 31 |
| Pacific Mail Line, New Zealand, &c | 3 | 2 | 13 | 169,650 | 24,712 rates letters, at 5 cents per rate. | ..... | ..... | ..... | 12,672 74 | 1,235 60 | ..... |
| Do | ..... | ..... | ..... | ..... | 202,775 rates letters, at 12 cents ber rate. | ..... | ..... | *6 cts. | | 24,357 00 | 25,592 60 |
| Do | ..... | ..... | ..... | ..... | 699,169 rates papers, at 2 cents per rate. | ..... | ..... | ..... | | 13,993 38 | 13,983 28 |
| Eliza Miller, Samoan Islands | 1 | ..... | 1 | 8,320 | 177 rates letters, at 5 cents per rate. | ..... | ..... | *2 cts. | 3 34 | 16 70 | 16 70 |
| Canadian service | ..... | ..... | ..... | ..... | 215,790 rates letters, at 2 cents per letter. | ..... | ..... | *1 ct. | 2,157 90 | 4,315 80 | 4,315 80 |
| Inward service | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 516 62 | 343 00 | ..... |
| Panama Railway Company | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | 4,723 83 | ..... | ..... |
| Grand total | 78 | 14 | 532 | 2,052 686 | 222,167,094 | 1,004,662,036 | ..... | ..... | 331,903 24 | 985,731 19 | 1,354,509 09 |

*A letter.

foregoing table it appears that the total number of miles trav- American lines in transporting the foreign mails during the ing June 30, 1885, was 2,052,686, for which there was paid the 46,387.47, or .02¼ cents per mile. It would be well to remember, nnection, that some of the foreign lines were paid as high as a mile while we were thus oppressing and starving the Ameri-. Recapitulating the rate of compensation paid to the several of the domestic service and contrasting it with the rate allowed n steamships for the foreign service, we have the following

| Service. | Whole number miles mail transported. | Total compensation. | Rate of compensation per mile. |
|---|---|---|---|
| | | | *Cents.* |
| ..... | 151, 912, 140 | $16, 627, 983 | .1095 |
| ..... | 83, 027, 321 | 5, 414, 804 | .0652 |
| domestic) | 3, 540, 607 | 563, 002 | .159 |
| foreign) | 2, 052, 686 | 46, 387 | .02¼ |

, if we contrast the rate per mile paid American steamships for ting the foreign mails with the amount paid the steamboats for nd coastwise service, the inequality becomes all the more as a glance at the following table will disclose:

| ervice. | Distance. | Number of trips per week. | Annual pay. | Service. | Distance. | Number of trips per week. | Annual pay. |
|---|---|---|---|---|---|---|---|
| | *Miles.* | | | | *Miles.* | | |
| Lubec ..... | 3 | 6 | $400 00 | Mackinaw City to Mackinac | 12 | 6 | $2, 460 00 |
| t, Va., to Pomeroy | 87½ | 6 | 7, 800 00 | Tacoma to Port Townsend . | 98 | 6 | 29, 700 00 |
| Williamston ..... | 51 | 6 | 3, 000 00 | Wood's Holl to Nantucket.. | 30 | (*) | 7, 875 00 |
| to Fayetteville . | 112 | 2 | 1, 450 00 | Norfolk to Cape Charles ... | 38¼ | 7 | 10, 971 62 |
| to Saint Simon's | | | | Norfolk to Baltimore. ..... | 200 | 6 | 18, 000 00 |
| ..... | 12 | 6 | 1, 000 00 | Lake Charles to Cameron... | 55 | 3 | 4, 090 00 |
| e to Palatka ..... | 80 | 6 | 8, 800 00 | Port Townsend to Sitka .... | 1, 343 | (†) | 18, 000 00 |
| ey West ..... | 246 | 2 | 23, 600 00 | Jacksonville to Fort George | 23⅝ | 6 | 1, 599 00 |

* Twelve times a week, 6 months; six times, 6 months. † One trip a month.

ut extending this table to greater length, it sufficiently appears rally we pay for the inland and coastwise steamboat service, ontrast, how insignificant the compensation awarded the Ameri- mships for carrying the foreign mails.

nited States paid for its mail service last year, between Lake and Cameron, a distance of 55 miles, $4,090; between New ty and Brazil, a distance of 5,500 miles, $4,210; between Wil- and Fayetteville, a distance of 112 miles, $1,450; between New ty and Venezuela, a distance of 2,200 miles, $1,392.94. We 12 trips between Port Townsend and Sitka, a distance of 1,343 18,000; and paid for 12 trips between San Francisco and Hong- distance of 6,000 miles, $2,243.77.

id the "Red D" line for carrying the mails between New York ezuela last year, a distance of about 2,200 miles, only $392.94 n we paid for carrying the mails between Brunswick and Si- ills, a distance of 12 miles.

To continue the comparison is only to make the inadequacy of compensation paid American steamships for the foreign mail service more apparent.

The whole amount received by some of the American lines from the United States for transporting its foreign mails during the last fiscal year was insufficient to meet the actual expenses attending their handling. Contrasting, therefore, the amount paid the American steamships for carrying the foreign mails with the compensation paid for our domestic service, whether by railway, star route, or steamboat, the insufficiency of the former must be conceded.

Postmaster-General Hatton, in his last annual report, speaking on this question of compensation to American steamships, said:

The compensation for transporting the mails to foreign ports by American vessels has always been restricted to a sum not exceeding the sea and inland postage, and the authority for the payment of even that inadequate compensation has been removed. For many years the proprietors of American steamships carrying our mails to distant ports have complained of the insufficiency of the compensation allowed for that service. I am firmly of the opinion that the sea and inland postage is not a reasonable compensation to such lines of American steamships as carry our mails over routes of great length to trans-Pacific, Central, and South American ports.

I am not alone in this opinion. At the second session of the Forty-seventh Congress, Mr. Dingley, from the Joint Select Committee on American Shipping, on the 15th of December, 1882, submitted a report of a joint committee of the Senate and House, in which they unanimously reported as follows:

"The law as it exists (section 3976, Rev. Stat.) compels the master of every American vessel engaged in the foreign trade to carry such United States mails as may be tendered him by the Post-Office Department, and allows him as compensation for such service a sum not exceeding 2 cents per letter carried. In no case is this an adequate compensation, and in some instances it does not pay the cost to the vessel of delivering the mails at the post-office in the port of arrival. The pay to United States vessels in the foreign trade for transporting the mails in 1880 was only 2¼ cents per mile, while at the same time the steamers on our coast which contracted to carry the mails received 57¼ cents per mile for mail service. The contrast between our inadequate mail pay to American vessels engaged in the foreign trade and the very liberal mail pay given by Great Britain to her steamship lines only serves to show more clearly the injustice and unwisdom of our policy. Since 1840 England has paid more than $250,000,000 for mail service, with the deliberate purpose of establishing and maintaining steamship lines to connect the United Kingdom with all parts of the world. Even in the last year she paid about $3,000,000 to her steamship lines for mail service, which was $1,641,300 more than she received from mail matter transported by them."

But it may be answered that this calculation is made upon the basis of the sea postage only, and that under the bill of the committee the Postmaster-General, in his discretion, may pay the whole amount of the sea and inland postage on the mails carried, and that such sum would be adequate compensation for the service. But even upon this basis it will be observed that the rate of compensation would fall far below that allowed for the inland or coastwise service, and insufficient, in some instances, to compensate the lines for the actual expenses attending the service. Why should the coastwise service be paid at the average rate of about 60 cents a mile, while the American steamship in its foreign service is restricted to sea and inland postage, which, on the short routes, is meager compensation, and on the long ones wholly inadequate? The discretion given the Postmaster-General to allow sea and inland postage does not relieve the bill from that inherent defect which restricts the compensation to that sum, regardless of the distance, dangers, or expenses of the service. No such unjust rule is applied to any other branch of the postal service; and in its application to the foreign service, adequate and just compensation is impossible. The sum which the "Red D" line, for instance, would receive as the full amount of the sea and inland postage, on the basis of last year's business, aptly illustrates the

nadequacy of such compensation. That line made last year thirty-four trips to the ports of Venezuela, making a distance traveled of 308,488 miles, for which, on the basis of sea and inland postage, it would receive $3,901.22, or about 1⅘ cents per mile, or an average of less than $115 per trip for a distance of about 2,200 miles and return—scarcely sufficient to meet the actual outlay incident to handling the mails. At the same time we paid the line from Tacoma to Port Townsend $29,700 for a distance of 98 miles. There is no reason or justice in this discrimination, and any rule of compensation which does not take into consideration the distance to be traveled must from necessity be defective.

But it is said that the bill of the committee only re-enacts the substance of the statute of 1864. While that may be true, it should be remembered that there is some difference between sea and inland postage at 5 cents a letter (or less than that, as construed by the Postmaster-General) and 40 cents a letter to half the foreign ports, 25 cents to China and Japan, and 30 cents a letter to Australia, as it was in 1864. Sea and inland postage *then* and sea and inland postage *now* are two different things. When the Postal Union rate went into operation, by which the sea postage was reduced to 5 cents between the nations parties to the Union, the United States was the only c untry that compelled its sea-going-lines to bear the loss.

It is argued, however, that the sea and inland postage will yield a greater revenue to the American steamships than they would derive from the carriage of a like amount of freight either in weight or bulk. We must be pardoned for declining to enter into a controversy with any one who places the United States mails, of incalculable commercial value, on a footing with common freight in the hold of a ship.

But passing from these considerations, it remains to be inquired what rate of compensation is allowed by other nations for services of like character. And here the contrast becomes, if possible, more striking.

Great Britain pays her China and East India line $1,793,000 annually.

England pays annually for her foreign mail service $3,500,000; France, $4,500,000; Germany, $1,600,000; Italy, $1,600,000; Austria, $1,000,000; Belgium, $1,000,000; Spain, $1,000,000; Holland, $400,000; Hungary, $372,000, and the United States paid last year only $326,735.18, the least sum among these ten great nations of the globe. Worse than that, $278,117.41 of this sum was paid to foreign lines, leaving for the American lines less than $50,000.

In 1840 England commenced paying subsidies. That year Samuel Cunard was given a bonus of $450,000 to put on a line of packets between Liverpool, Halifax, and Boston. Since then she has paid more than $250,000,000 to her steamship companies, and thus has increased her commerce thousands of millions of dollars. In 1845 lines to other parts of the world were subsidized, and finding the result so favorable, a general system was inaugurated under which from three to six million dollars has been paid annually. Now, the English merchant marine carries about 62 per cent. of the entire commerce of the world. The United States pays annually, to foreign ship owners, for the carriage of mails, passenger and freight, more than $75,000,000.

Last winter Mr. Frelinghuysen, then Secretary of State, addressed notes of inquiry to the various legations in Europe, as to the amount of aid granted by the Governments of that continent to encourage commerce between their ports and Central and South America. Mr. James Russell Lowell, in reply, inclosed the following communication from the premier of Great Britain:

"FOREIGN OFFICE, *January* 24, 1885.

"SIR: I have the honor to transmit to you the accompanying statement which Her Majesty's postmaster-general has caused to be prepared, giving the information so far as the records of the general post-office extend, viz, from the year 1861 to the present date, in regard to the aid granted by Her Majesty's Government toward the establishment of direct steamship communication between this country and Central and South America.

"I have the honor to be, &c.,

"GRANVILLE."

[Inclosure.]

| Year. | Amount. | Year. | Amount. | Year. | Amount. | Year. | Amount. |
|---|---|---|---|---|---|---|---|
| 1862 | £294, 243 | 1869 | £229, 549 | 1875 | £249, 018 | 1881 | £99, 355 |
| 1863 | 294, 243 | 1870 | 241, 459 | 1876 | 139, 652 | 1882 | 96, 614 |
| 1864 | 294, 243 | 1871 | 247, 624 | 1877 | 130, 499 | 1883 | 96, 785 |
| 1865 | 231, 414 | 1872 | 250, 568 | 1878 | 123, 084 | 1884 | 96, 569 |
| 1866 | 226, 914 | 1873 | 253, 352 | 1879 | 116, 306 | | |
| 1867 | 225, 104 | 1874 | 248, 697 | 1880 | 95, 367 | Total | 4, 511, 112 |
| 1868 | 229, 972 | | | | | | |

* Or about $22,500,000.

As nearly as can be ascertained, the amount paid by the United States for the same service during this time has not exceeded $350,000.

The post-office department of Great Britain has recently advertised for proposals from steamship companies to carry the mails between Coal Harbor, British Columbia, and the ports of China, Japan, and Australia, to take the place of the Pacific Mail Steamship Company of the United States, and to afford a connection for the Canadian Pacific Railroad. A liberal subsidy will be paid.

### WHAT FRANCE HAS DONE.

The French Government has been equally liberal in its encouragement to steamship lines, and during the past fifteen years has paid $70,166,670 in the form of subsidies. The result is shown by the increase of commerce. In 1870 the steam tonnage under the French flag amounted to 154,415. In 1884 it had increased to 722,862 tons. The French plan of subsidizing ships differs from that of other nations, a bounty of 30 cents per ton being paid by every mile of steam navigation by vessels built in its ship yards and sailing under its flag, and an additional bounty of 15 cents per ton when the designs of the vessels are submitted to and are approved by the minister of marine.

A still further bounty is paid to steamship owners upon every ton of freight carried, which is intended to be and proves successful as an inducement to transportation companies to offer cheap rates. The lower the tariffs, naturally the greater the cargo, and the larger the cargo the greater the subsidy. This bounty amounts to about $4,500,000 annually, and comes back into the pockets of the taxpayers in the form of increased profits on manufactured goods, and lower prices for raw imported materials. Under this system in 1884 the French Government paid to its China and East India lines, $1,714,000; to its South American lines, $728,000; and to its West India and Central American line, $790,000.

### THE NETHERLANDS.

In answer to the inquiry of Mr. Frelinghuysen, Mr. Dayton, United States minister to the Hague, writes that the "Royal West India mail steamers" are paid the sum of $1,500 for each voyage going and returning, or $3,000 for each round trip for a weekly service between its ports and those of the West Indies and Central and South America.

### AUSTRIA-HUNGARY.

Mr. John M. Francis writes from Vienna that the Austrian-Hungarian Government pays a subsidy of 2,000 florins to the Austrian-Hugarian Lloyd Steamship Company for each trip between Trieste and Central and South America, or 4,000 florins for the round trip.

### BELGIUM.

The minister to Belgium writes that the Lampert and Holt Line of steamers between Antwerp and Rio de Janeiro, Buenos Ayres and Montevideo, receives the whole of the postal revenues for the mails carried by that line, whether originating in or destined to Belgium, or whether intended for transmission through Belgium to and from other countries, in addition to which a bonus of 250,000 francs per year is paid, and a premium of 50 francs an hour is offered for every hour the steamships gain in time over the stated duration of the voyage, which is fixed at thirty-five days going and thirty seven days coming from Buenos Ayres. In addition to this subsidy, 500,000 francs and sea postage is annually paid for carrying the mails between Antwerp and New York.

GERMANY.

Hon. John A. Kasson, recently minister to Berlin, answers the inquiry of the Secre-
ary of State as follows:

LEGATION OF THE UNITED STATES,
*Berlin, March* 30, 1885.

SIR: Inclosed herewith I transmit a copy of the law recently passed by the Reich-
tag granting subsidies for the establishment of three new steamship lines for the fur-
her development of German commerce and German interests in foreign countries,
ith translation of the same.

The contract is made for fifteen years, the annual amount for the first two lines be-
g 4,000,000 marks, and for the tributary lines 1,000.

The determined resolut on of the chancellor to provide this new opening to market
r the surplus manufactures of Germany, to open new spheres of employment to the
nterprising German people, and to increase the influence of Germany in the world,
nforced by his powerful and patriotic arguments in parliament, carried the day over
he combination of opposing parties. Happy country whose intelligent and patriotic
tatesmanship is not howled down by the demagogues' cry of "jobbery."

I have the honor to be, sir, your obedient servant,

JOHN A. KASSON.

OTHER SUBSIDY-PAYING NATIONS.

Spain and Italy pay no subsidies, but give good rates for the transportation of the
ail.* The Spanish line of steamships to the West Indies and the Spanish main receives
bout $350,000 a year from the Government; and an Italian line from Genoa to the
iver Plate has just been extended to Valparaiso under liberal inducements from the
overnment.

Brazil pays $1,500,000 a year in the way of subsidies, $100,000 of which is given to
e American line between Rio and New York.

Chili gives $150,000 a year to the native company running weekly steamers from
alparaiso to Callao, Peru, and $100,000 to the Pacific Steam Navigation Company,
hose vessels ply between Panama and Liverpool by way of the Straits of Magellan.
cuador pays this same company $50,000 a year; and Peru paid $100,000 annually,
ntil her treasury became bankrupt during the recent war.

The island of Barbadoes pays $90,000 a year to the Royal Mail Steam Packet Com-
any of England for making that its headquarters.

Guatemala pays $125,000 a year in subsidies, and Nicaragua $85,000.

Mexico pays $130,000 a year to a company running steamers from Vera Cruz to
iverpool by way of Havana, and has recently contracted to pay a thirty years' sub-
idy to a company which will establish steam communication between Vera Cruz
nd the east coast of South America. Semi-monthly voyages are to be made, and
e company will receive $18,000 per round trip for the first ten years, $16,000 per
rip for the second ten years, and $14,000 per trip for the third ten years, with an ad-
itional bounty of $25 for every immigrant brought to Mexico. This head money on
mmigrants is also paid to the Liverpool line.

In October, 1885, the Mexican Government made a contract with an English com-
any to operate a monthly line of steamers between its Pacific ports and Yokohama
nd Hong-Kong, paying a subsidy of $10,000 per voyage, and $25 per capita for every
mmigrant brought from China to Mexico. These steamers will sail under the
hinese flag.

The following statement, prepared at the Post-Office Department, shows the amount
ontributed by this Government during the years named toward sustaining steamship
ommunication between all of the ports of the United States and those of Central and
outh America:

*Amounts paid by the United States Government to steamship companies for the transportation of mail between the United States and the countries of Central and South America, commencing with the fiscal year* 1876 *and ended* 1884.

| Fiscal year ended— | For countries via Colon and Colon. | Countries via Panama and Panama. | Ecuador via Panama. | Guatemala. | Venezuela.* | Brazil.† | Argentine Republic.‡ | Uruguay.§ | Peru, Salvador, Honduras, Mexico. | New Orleans to British, and Republic of Honduras and Guatemala. |
|---|---|---|---|---|---|---|---|---|---|---|
| June 30, 1876 | $1,457 37 | $9,738 33 | $400 06 | $1,748 62 | $131 51 | $921 55 | ..... | ..... | ..... | ..... |
| June 30, 1877 | 2,695 20 | 8,873 09 | 502 51 | 1,961 86 | 79 06 | 290 31 | $128 38 | ..... | ..... | ..... |
| June 30, 1878 | 4,024 06 | 11,142 06 | 654 77 | 2,294 39 | 604 55 | 1,342 40 | 25 78 | $8 88 | ..... | ..... |
| June 30, 1879 | 1,123 52 | 9,496 20 | 870 04 | 2,333 81 | 701 43 | 3,291 11 | 235 84 | 13 48 | ..... | ..... |
| June 30, 1880 | 672 88 | 7,846 76 | 933 02 | 1,832 90 | 467 61 | 2,875 40 | 438 40 | 140 60 | $2,043 11 | ..... |
| | | | Peru, Ecuador, Salvador, Mexico, Honduras. | | | | | | | |
| June 30, 1881 | 1,438 07 | 8,027 50 | $2,136 25 | 2,915 70 | 641 56 | 3,484 92 | 375 95 | 157 01 | ..... | ..... |
| | | | U. S. of Colombia, Chili, Peru, Ecuador, Nicaragua, Salvador, Guatemala, Honduras, Mexico, and Costa Rica (via Panama). | | | | Argentine Republic, Uruguay, and Paraguay. | | | |
| June 30, 1882 | 223 64 | 2,432 58 | $5,883 72 | ..... | 631 25 | 2,516 46 | $885 95 | ..... | ..... | ..... |
| | | Panama and Costa Rica. | U. S. of Colombia, Peru, Ecuador, Chili, Nicaragua, Honduras, Salvador, Guatemala, Costa Rica, Mexico (west coast), (via Panama). | | | Brazil, Argentine Republic, Uruguay, and Paraguay.‖ | | | | |
| June 30, 1883 | ..... | $589 51 | $7,550 34 | ..... | 896 25 | | $4,760 38 | ..... | ..... | ..... |
| | | | U. S. of Colombia, Peru, Ecuador, Chili, Nicaragua, Honduras, Salvador, Guatemala, Costa Rica, Mexico (via Panama). | | | Brazil, Argentine Republic, Uruguay, and Paraguay. | | | | |
| June 30, 1884 | ..... | ..... | $8,549 18 | ..... | 1,048 22 | | $[illegible] 101 95 | ..... | ..... | [illegible] |

the richest, most prosperous, and most enterprising nation in South America rchants are almost entirely cut off, because of the absence of direct and regular hip communication, which would be supplied if the Congress of the United would encourage capitalists to establish steamship lines.

e foregoing facts are reported not for the purpose of arguing in of subsidies, but to show how liberally other nations pay for a e the performance of which it is proposed to impose upon the ican lines for the sea and inland postage, or any less sum the aster General may in his discretion allow, or in case of refusal to them the right to carry the American flag.

asured, then, by the domestic or foreign standard, the compensa- paid American steamships for carrying the United States foreign falls far short of that allowed by this Government for its inland astwise service, or by other nations for the transportation of their s.

other consideration cannot escape the notice of the minority. That commercial advantage flows to that nation which establishes and tains a regular line of mail steamships with foreign countries ought o be entirely ignored. That view of the case which does not in- the national benefits derived from postal facilities with the great nercial nations of the earth falls far short of embracing the whole of the matter. To show how other nations have been benefited estowing liberal compensation for the establishment of mail com- cation with foreign countries, and how America is suffering by ning the opposite policy, it is necessary to submit only a brief ment.

1856 one-half of the commerce of South America was done under lag of the United States; now our share is less than one-fifth. Then er cent. of our exports and imports were carried in our own ships; we carry less than 16 per cent. In 1856 England had but 385,038 in steamships; now she has 5,620,000 tons. Almost under the low of our own mountains, in ports that are within hundreds of miles ur own coasts, but thousands of miles from theirs, European mer- ts hold undisputed sway. Of our annual mechanical and agricultural ucts, valued at $15,500,000,000, we sell but $76,000,000 to our near- neighbors, while the European producers sell them $325,000,000. land, France, and Germany have secured a monopoly of the trade Central and South America by the establishment of means of dy, regular, and cheap transportation, and we have lost it by neg-

he value of the manufactured merchandise imported into the sev- l countries of Central and South America during the year 1884 was follows:

| Country. | Value of imports. | Country. | Value of imports. |
|---|---|---|---|
| ico | $30,000,000 | Venezuela | $16,000,000 |
| temala | 3,500,000 | Colombia | 13,700,000 |
| duras | 750,000 | Ecuador | 4,375,000 |
| ador | 2,750,000 | Bolivia | 4,500,000 |
| aragua | 3,250,000 | Chili | 52,600,000 |
| ta Rica | 2,800,000 | Peru | 7,600,000 |
| tish Honduras | 1,250,000 | Argentine Republic | 84,900,000 |
| | | Uruguay | 26,000,000 |
| Total Central America | 44,300,000 | Paraguay | 1,300,000 |
| | | Brazil | 101,000,000 |
| st Indies | 117,113,000 | | |
| | | Total South America | 325,975,000 |
| nch Guiana | 1,500,000 | | |
| ch Guiana | 1,700,000 | Grand total | 487,388,000 |
| tish Guiana | 10,800,000 | | |

The figures showing the distribution of these imports for 1884 cannot yet be obtained, but the exports of the United States, France, and Great Britain to the countries named below in 1883 were as follows:

| | United States. | Great Britain. | France. |
|---|---|---|---|
| Central American States | $2, 003, 467 | $4, 186, 893 | $1, 392, 113 |
| Colombia | 6, 868, 971 | 6, 009, 414 | 5, 984, 332 |
| Venezuela | 2, 403, 705 | 3, 126, 123 | 1, 324, 468 |
| Brazil | 9, 252, 094 | 34, 140, 119 | 15, 657, 473 |
| Uruguay | 1, 452, 812 | 9, 683, 712 | 5, 111, 211 |
| Argentine Republic | 3, 543, 196 | 30, 605, 963 | 24, 956, 691 |
| Chili | 2, 860, 496 | 21, 318, 312 | 9, 655, 555 |
| Peru | 493, 894 | 4, 811, 600 | 1, 760, 670 |
| Total | 28, 878, 625 | 113, 972, 136 | 65, 842, 533 |

The increase of the imports from Great Britain into the Argentine Republic in 1884 was very large, and reached a total of $38,000,000. There was a corresponding increase in most of the other countries.

There is no steam communication between the Argentine Republic and the United States, while there are 21 lines of steamers connecting its ports with those of Europe. In 1884, 3,626 steamers arrived at Buenos Ayres, representing a total tonnage of 1,437,018; and 3,445 sailing vessels, representing a tonnage of 517,070. Of this total tonnage 34 per cent. was under the English flag, 16 per cent. under the French, 9 per cent. under the German, and 24 per cent. under the flags of all other nations. The United States was represented by 2 per cent. of the sailing vessels. In 1862 there was no direct line of steamers between Europe and the Argentine Republic. Since then England, France, Spain, Italy, and Belgium have established lines. From 40 to 60 steamers arrive in Buenos Ayres every month from Europe; thirty regular European mail steamers arrive and depart from the ports of the Argentine Republic every 30 days. The Argentine Republic is anxious to establish commercial relations with the United States, and the Brazilian line could soon push its way into her ports if our Government manifested the slightest disposition to aid her in that enterprise. The trade with Uruguay is monopolized by European countries. Steamship lines from almost every nation in Europe have been established with this country—eight English, 4 French, 2 Italian, 1 Spanish, 1 Belgian, and one from the Netherlands—while there is not a vessel for New York from the ports of this country—under steam.

The value of the trade of Uruguay is shown by the following statement of the foreign commerce of that country during the last twenty years:

| Year. | Importation. | Exportation. | Total. | Year. | Importation. | Exportation. | Total. |
|---|---|---|---|---|---|---|---|
| 1862 | $8, 151, 802 | $8, 804, 442 | $16, 956, 244 | 1874 | $17, 181, 672 | $15, 244, 783 | $32, 426, 455 |
| 1864 | 8, 384, 167 | 6, 334, 706 | 14, 718, 873 | 1875 | 12, 431, 408 | 12, 693, 710 | 25, 125, 018 |
| 1866 | 14, 608, 091 | 10, 665, 040 | 25, 273, 131 | 1876 | 12, 800, 000 | 13, 727, 000 | 26, 527, 000 |
| 1867 | 17, 657, 918 | 12, 077, 795 | 29, 735, 713 | 1877 | 15, 045, 846 | 15, 899, 405 | 30, 945, 251 |
| 1868 | 16, 102, 475 | 12, 139, 720 | 28, 242, 195 | 1878 | 15, 927, 974 | 17, 492, 159 | 33, 420, 133 |
| 1869 | 16, 830, 678 | 13, 930, 027 | 30, 760, 705 | 1879 | 15, 949, 903 | 16, 645, 961 | 32, 595, 864 |
| 1870 | 15 003, 342 | 12, 779, 051 | 27, 782, 393 | 1880 | 19, 478, 868 | 19, 752, 201 | 39, 231, 069 |
| 1871 | 14, 864, 247 | 13, 334, 224 | 28, 198, 471 | 1881 | 17, 918, 884 | 20, 229, 512 | 38, 148, 396 |
| 1872 | 18, 859, 724 | 15, 489, 332 | 34, 349, 256 | 1882 | 18, 174, 800 | 22, 062, 934 | 40, 237, 734 |
| 1873 | 21, 075, 446 | 16, 301, 772 | 37, 377, 218 | 1883 | 20, 822, 311 | 25, 221, 664 | 45, 543, 975 |

A recent editorial from the Journal of Commerce, published at Valparaiso, Chili, gives a striking picture of our trade (or rather want of it) with that country:

The political economists and manufacturers of the Grand Republic (as they call the United States) are beginning to realize the small amount of trade they do with the South American countries in comparison with England, France, and Germany. Without exaggeration we may say that these nations rule our market, and the commerce of the first named exceeds that of all the other nations of the old and new world together, forming a painful contrast with the United States.

In the last twenty years, commencing from 1863, the exports from Germany to Chili have increased from $772,515 to $10,015,564; those from France from $4,301,858 to $8,935,309; and those from England from $4,090,069 to $31,638,000. From the United States they have decreased from $1,810,846 in 1863 to $1,774,645 in 1882. More notable still are the exports, for to Germany they increased from $684,596 to $4,811,438; to France from $1,649,364 to $6,208,927; to England from $12,313,029 to $58,961,622; but to the United States they only increased from $1,352,672 to $1,666,978.

We can therefore say that, should the commerce with the other nations continue in the same proportion, before twenty-five years shall have elapsed the products of the Grand Republic will be excluded from this coast, as the North American flag now is, being represented last year by only two steamers—vessels of war—in the presence of 10 Spanish, 12 Italian, 78 French, 100 German, 1,944 English steamers. The United States yields in nothing to other nations; neither in population, richness, nor industrial products. It rather surpasses them in most respects, and should have our trade by reason of its proximity, and the international sympathy engendered by common institutions and aspirations. It is therefore a case which excites our curiosity, wounds our self-esteem, affects our commercial interests, and needs careful consideration and efficacious remedies.

The people of the United States no doubt believe, as they have good reason to, that the humiliating condition of their commerce in South America is neither natural nor vital, and there is an easy method of improving it, by overcoming the artificial obstacles which stand in the way, in order that the great Republic may take the first place in rank and honor. The distinguished commissioners will commit a grave error if they attribute the prostration of their commerce to antipathies or bad feeling toward their country, or to a predilection for European manufactures. On the contrary, there is no one in Chili who does not recognize the superiority of American products, natural and manufactured, and as regards price and quality they are preferred to European goods, with perhaps the exception of articles of fashion and fine arts, which they themselves import. Yet in spite of this, the English and Germans have almost a monopoly in all the South American markets.

Whenever we have established and maintained steamship communication with foreign countries, increase of trade has rapidly followed. As the result of establishing the "Red D Line," running between New York and the ports of Venezuela, our trade with that country has rapidly increased from $1,793,000 in 1879 to $2,953,000 in 1884, and $3,043,339 in 1885.

*Trade between United States and Venezuela.*

| | Imports. | | Exports. | |
|---|---|---|---|---|
| | 1870. | 1884. | 1870. | 1884. |
| Total imports | $1,917,000 | $6,074,000 | | |
| Total exports | | | $866,000 | $2,000,427 |
| Hides | 440,000 | 1,052,000 | | |
| Breadstuffs | | | 217,000 | 518,000 |
| Cotton goods | | | 11,000 | 338,000 |
| Iron and steel | | | 40,000 | 313,000 |
| Provisions | | | 112,000 | 431,000 |
| | *Pounds.* | *Pounds.* | | |
| Coffee | 11,000,000 | 53,000,000 | | |

It is needless to enlarge upon the advantages which necessarily flow, in a commercial sense, to that country establishing and maintaining a regular line of foreign communication. The history of every nation confirms

it, and every consideration of national pride and patriotism dicta
the United States in the employment of American steamships t
port its foreign mails should be actuated by that policy which
mote rather then destroy our merchant marine. In doing this
necessary to subsidize these lines, but only allow them such co
tion as under all the circumstances is just and reasonable. Th
the committee not only does not do this, but empowers the Pos
General to force American lines to carry the United States mail
or surrender the advantage of sailing under the American fla
country is neither prepared nor can it afford to place the destin
merchant marine in the keeping of any one man.

J. C. BURR
S. C. MILLA
S. R. PETEI
H. H. BING

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)TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 535.

# EMPLOYÉS OF THE POSTAL SERVICE.

FEBRUARY 16, 1886.—Laid on the table and ordered to be printed.

r. J. M. TAYLOR, from the Committee on the Post-Office and Post-Roads, submitted the following

## REPORT:

[To accompany bills H. R. 2113 and 4489.]

*e Committee on the Post-Office and Post-Roads, to which were referred House bills* 2113 *and* 4489, *having had the same under consideration, report as follows:*

The first named (H. R. 2113) is "A bill granting a gratuity to persons ving served faithfully twenty-five continuous years in the postal serv- of the United States, or who after ten years of faithful service shall come physically or mentally disabled."

The latter (H. R. 4489) is entitled "A bill for the relief of aged, dis- led, diseased, and worn-out postal clerks who have devoted the best ars of their lives to the (transit) mail service, and who have been or ay hereafter be in the employ of the Post-Office Department in the duous and extrahazardous service therein mentioned for a period of t less than twenty years."

The two bills being of a kindred nature, we have considered them to- ther and report accordingly:

The number of railway mail clerks now in the service is between rty-four and forty-five hundred, and the estimated appropriation for e next fiscal year for the payment of this special class is $4,877,000, hich is supposed sufficient.

These bills contemplate a pension list and the retirement of postal erks or route agents and messengers who become disqualified from any use for future service after a certain numbers of years of continuous rvice, or who after ten years' faithful service shall become physically mentally disabled. One of the bills proposes to retire them on ay equal to two-thirds of the compensation they were receiving, and e other to full pay

We are opposed to the policy of establishing by legislation a pensioned vil list, and especially to the adoption of a statute with such broad pro- sions as are embraced in these bills. We do not realize the necessity propriety of creating this additional retired list, embracing all persons *ployed in any capacity* in the postal service of the United States, in eference to those employed in other branches of the Government rvice.

This is not a compulsory service; these employés are not conscripted to the service, but voluntarily ask for and accept such appointments, the exclusion of others, that they may be the beneficiaries of the Gov- nment and receive a salary. This service is eagerly sought by num-

bers of persons unable to obtain them, but who would gladly accept the same, with all the attending dangers and hardships, for the compensation allowed, and give the Government immunity from granting these pensions. Again, there are numbers of employés in other capacities in the postal service who are not exposed to danger and have no "extra hazardous duties" to perform. Why single out from the different branches of the public service this special class? It was never anticipated by the framers of our Constitution, under our theory of Government, that the people should be taxed for the support of a favored few who have for a continuous term of years drawn salaries from the Government, and failed to provide for themselves.

All nationalities recognize the propriety of granting pensions to soldiers and sailors disabled in battle, or who have become helpless in the service of their country, but their right to such recognition is based upon a different principle to that embraced in these bills.

The taking of this step would eventually lead to the pensioning of almost all classes of persons in the employ of the Government, and entail upon the people a constantly increasing and enormous debt. It would, in our opinion, be much the safer plan to increase the pay of such employés than to establish by legislation this dangerous and undemocratic precedent. There is no moral, and should be no legal, obligation upon the Government to tax the people and take from them their hard earnings in order to support those less thoughtful, who have lived upon the Government and wasted the salaries paid by the same. We are opposed to according to this class of employés superior privileges and provisions to other classes of persons.

It is insisted that this service is attended with great danger, to accidents, &c. This is conceded, and so of all other Government service. Clerks and employés in the Departments in the city are subject to heated atmosphere and they, too, become worn out and die.

Government contractors and employés in Government buildings are exposed and are frequently killed by accident. Mail carriers on star-routes are exposed to inclement weather and take great risks, frequently receiving and incurring serious injuries. And so on with the entire list. Why, then, single out postal clerks, above all others, with whom to commence a civil pension list? Congress, in our opinion, has gone far enough in granting extra pay for services never rendered, leaves of absence on pay, &c., and, considering all the surroundings, we recommend said bills do not pass.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 536.

# LEGISLATURE OF STATE OF NEVADA.

FEBRUARY 16, 1886.—Laid on the table and ordered to be printed.

Mr. T. B. WARD, from the Committee on the Post-Office and Post-Roads, submitted the following

## REPORT:

The Committee on the Post-Office and Post-Roads have had under consideration the accompanying joint resolution of the legislature of the State of Nevada, and report that the subject matter of said resolution does not require legislation, and further recommend that said joint resolution do lie upon the table.

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ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 537.

# ACT OF JUNE 15, 1844.

ARY 16, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

AN EATON, from the Committee on the Public Lands, submitted the following

## REPORT:

[To accompany bill H. R. 4493.]

ur committee, to whom was referred House bill 4493, find that by f Congress, approved June 15, 1844, a grant was made to the ty of Dubuque, Territory of Iowa, of two lots and a half, lying and g situate in the town of Dubuque, on the northeast corner of Sev- and Locust streets, in said county, being two lots on which was ed the old county jail. By a clerical error in the act the lots were ribed as being on the *northwest* corner, &c., instead of the *northeast* er, as it should have been.

e said bill is for the sole purpose of correcting this error.

e county of Dubuque, under said act of 1844, sold and conveyed lots to two brothers, named John and Thomas Burton. Thomas on afterwards died unmarried, devising all his interest in said lots said brother, John Burton. The latter died, leaving a widow, named Mary Wilson, and one child, now named Mary B. Wallis, inherited the said property.

e said Burtons and the said Mary Wilson and Mary B. Wallis been in open and notorious possession of said property since Janu- 8, 1845, date of sale to them by Dubuque County; have erected nsive buildings thereon, paid taxes, and enjoyed the uninterrupted undisputed possession thereof.

ither the county of Dubuque, the city of Dubuque, nor any other on has ever made claim to said property since the sale to said on brothers, and the said city and county unite in a statement to gress setting forth the fact that said city and county make no claim id lots, and confirming the claims of the heirs and legal represent- es of the said Burton brothers.

e said Mary Wilson and Mary B. Wallis ask the passage of this to perfect their title to said lots, and the Committee on the Public ds are unanimous in recommending that the bill do pass.

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ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 538.

# NEW LAND DISTRICT IN WYOMING.

Y 16, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

'FOON, from the Committee on the Public Lands, submitted the following

## REPORT:

[To accompany bill H. R. 2924.]

*mittee on the Public Lands, having had under consideration the bill '. No. 2924) to establish a new land district in the Territory of ning, make the following report:*

recommend that the first section of said bill be amended so as "That all the public lands in the Territory of Wyoming, in the of Johnson and Crook in said Territory, shall constitute a new strict, to be called the Buffalo district," and that the bill so d pass.

bill is to create an additional land district. The new district 210 miles long by 110 miles wide, and will contain 14,784,000 No arrangement except this can prevent long and expensive l journeys from being made. As matters are now it often costs ler two or three times as much as the land is worth to travel to l office to attend the contests. No portion of the new district ess than 130 miles from any existing office, while the most of the the district are double that distance. It is not believed that the ce will materially affect the revenue of the Cheyenne district, ich it is proposed to cut the new district. The Cheyenne office xed with business, and the creation of a new district will cost ional expense, as the Government is compelled to employ sev- 'ks for the Cheyenne office. The most of the lands in the pro- ew district have been surveyed. The counties named have just ced to settle, having an aggregate population of about 11,000 and the assessed valuation of the property in the two counties ly over $7,000,000.

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 539.

# ASTERN AND WESTERN BANDS OF CHEROKEE INDIANS.

BRUARY 16, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

. PERKINS, from the Committee on Indian Affairs, submitted the following

## REPORT:

[To accompany bill H. R. 755.]

*e Committee on Indian Affairs, to whom was referred the bill (H. R. 755) to refer the claims of Eastern and Western Bands of Cherokee Indians to the Court of Claims, have had the same under consideration, and report:*

That in compliance with the provisions of the act of August 7, 1882, 2 Stats., 328) directing the Secretary of the Interior to investigate ese claims and report to Congress what, in his opinion, would be an uitable settlement of all matters of dispute between these claimants, spectively, and the United States, arising from or growing out of aty stipulations or laws of Congress relating thereto, and what sum sums of money, if any, should, in his opinion, be paid under such tlement, the Secretary caused an investigation of the claims of these o bands of Indians to be made, the report of which was made by n to Congress through the executive department on February 7, 83, near the close of the Forty-seventh Congress (Senate Ex. Doc. . 60, second session, Forty-seventh Congress).

Upon that investigation it was found by the Interior Department that ere appeared to be due the Eastern Cherokees the sum of $336,031.85, t including interest, and the sum of $421,653.68 to be due to the "Old ttlers" or Western Cherokees, not including interest.

That during the first session of the Forty-eighth Congress, on Dember 17, 1883, the said report of the Secretary of the Interior, so far it related to the claims of the "Old Settlers" or "Western Cherees," was again laid before Congress (Senate Ex. Doc. No. 14, st session, Forty-eighth Congress). The Committee on Indian Fairs of the Senate, to whom that report was referred, in pursuce of the provisions of an act entitled "An act to afford assistce and relief to Congress and the Executive Departments in the estigation of claims and demands against the Government," approved rch 3, 1883, referred the claim of the "Old Settlers" or "Western erokees," together with the vouchers, papers, proofs, and documents pertaining thereto, to the Court of Claims for the investigation of facts involved therein, and to report to that committee its finding the facts relating to said claims.

On the 2d day of February, 1885, the court certified to that commit- its finding of facts. The court, however, not being authorized by

the act under which the reference to it was made to determine the questions of law involved in the claim, found the facts *alternatively* as to the amount due from the United States to those claimants contingent upon the construction to be placed upon the treaty stipulations and the several acts of Congress relating to the claim.

The committee find that a proper determination of the law applicable to the facts found by the Court of Claims in the case of the "Old Settlers" or "Western Cherokees" involve the interpretation of several treaties and acts of Congress. And inasmuch as such a determination of those legal questions is important to both the Government and these claimants, and inasmuch as the committee, with its other important duties of a public nature, have not the time to give such legal questions that careful and thorough examination they deserve, the committee are of opinion that said questions ought to be submitted to a competent judicial tribunal for investigation and decision.

The committee also find that the claim of the Cherokee Nation (or Eastern Cherokees) has not been investigated by any judicial tribunal, either as to the facts or the law involved therein. The committee are of the opinion that said claim should receive a judicial investigation of both the law and the facts.

The subcommittee of your committee referred the bill to the honorable Secretary of the Interior for his information, and for his views as to the propriety of its passage, who, on January 26, 1886, returned the same to the committee, expressing his concurrence in the recommendation of the passage of the bill made by the Commissioner of Indian Affairs, and suggesting an amendment which the committee have adopted. The letters of the Secretary of the Interior and Commissioner of Indian Affairs are hereto appended as part of this report.

Therefore, the committee, in order that both of said claims may be properly, speedily, and finally disposed of by competent judicial tribunals, recommend the passage of the bill with the amendments reported thereto.

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DEPARTMENT OF THE INTERIOR,
*Washington, January* 26, 1886.

SIR: In response to the request of Hon. Messrs. Perkins and Peel, subcommittee of the House Committee on Indian Affairs, presented in their letter of 20th instant, inclosing for the views of this Department H. R. 755, of the current session, being a bill "to refer the claims of the Eastern and Western Cherokee Indians to the Court of Claims," I transmit herewith, for the information of said committee, a copy of the report of the Commissioner of Indian Affairs, to whom the subject was referred.

The views of the Commissioner of Indian Affairs, favoring the passage of the bill, are concurred in by me, with suggestion that the bill be amended as indicated on the inclosed copy, by inserting after the word *property*, in line 22 the following words, "and to try and determine all questions that may arise in such causes on behalf of any party thereto, and render final judgment therein."

The inclosures of the letter of the subcommittee are herewith returned.

Very respectfully,

L. Q. C. LAMAR,
*Secretary.*

Hon. OLIN WELLBORN,
*Chairman Committee on Indian Affairs, House of Representatives.*

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DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
*Washington, January* 25, 1886.

SIR: I have the honor to acknowledge the receipt, by your informal reference, of a letter, dated the 20th instant, from Hon. B. W. Perkins and S. W. Peel, sub-com-

ittee of the House Committee on Indian Affairs, inclosing H. R. 755, Forty-ninth Con-
ess, first session, being "A bill to refer the claims of the Eastern and Western
ands of Cherokee Indians to the Court of Claims."

The facts relating to these claims are fully set out in the correspondence of this De-
artment, which may be found printed in Senate Executive Documents No. 60, Forty-
venth Congress, second session, and No. 14, Forty-eighth Congress, first session, ac-
mpanying the letter referred to.

It will be observed that this Department, under the provisions of an item in the
ndry civil act of August 7, 1882, found the sum of $336,031.85 to be due the Cher-
ees, and the sum of $421,653.68 to be due to the "Old Settlers," or "Western Cher-
ees," exclusive of interest in both cases.

The claim of the "Old Settlers," or "Western Cherokees," was referred by Congress
the Court of Claims (Congressional case No. 14), and it will be observed from the
ord, a copy of which accompanies the present papers, that the seventh subdivision
the finding of facts is divided into two alternative subdivisions.

In the first of these alternate subdivisions the sum of $266,994.72 is found to be due
se Indians, and in the second the sum of $4,664.45 is found to be due them, without
erest in both cases.

n my opinion both of these claims should be referred to the Court of Claims.
ere are in both cases controverted questions of fact and law, and the court is the
per tribunal to determine these questions.

see no objections to the bill, and recommend its passage.

The papers are herewith inclosed.

Very respectfully, your obedient servant,

J. D. C. ATKINS,
*Commissioner.*

The Hon. SECRETARY OF THE INTERIOR.

C

9TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 540.

# PUBLIC BUILDING IN ZANESVILLE, OHIO.

BRUARY 16, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Ir. WILKINS, from the Committee on Public Buildings and Grounds, submitted the following

## REPORT:

[To accompany bill S. 206.]

*'he Committee on Public Buildings and Grounds, to whom was referred the bill (S. 206) providing for the erection of a public building at Zanesville, Ohio, submit the following report:*

Zanesville is the largest city in Southeastern Ohio, and one of the rgest in the State, located in the center of the great coal and iron gion, and is at the head of navigation on the Muskingum River. It ntains about 25,000 inhabitants, and is rapidly growing. Large manicturing interests are here established. Iron and steel, steam engines, ricultural machinery, ornamental and floor tiling, fire and pressed ck are a few of the prominent industries, employing about four thouid people. Five railroads in operation, three daily newspapers, coles, all go to make one of the most enterprising and progressive cities the country.

'he Government pays annually $800 rent for a post-office, the accomdations for which are wholly inadequate. Your committee do not nk it necessary to here give the statistics of receipts and expendites of the post-office, but to confine itself to the needs of the same. ty odd mails are received and forwarded each day; seven clerks and ht carriers are employed.

The committee believe the Government ought to erect a public building at this city suitable to the necessities and wants of the Government nd for the accommodation and comfort of the people. Therefore unanmously recommend the passage of this bill.

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I CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 541

# PUBLIC BUILDING IN SPRINGFIELD, MO.

UARY 16, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

WADE, from the Committee on Public Buildings and Grounds, submitted the following

## REPORT:

[To accompany bill H. R. 1391.]

*Committee on Public Buildings and Grounds, to whom was referred House bill No.* 1391, *beg leave to submit the following report:*

ie cities of Springfield and North Springfield are located on the t Louis and San Francisco Railroad and the Kansas City, Spring- and Memphis Railroad, 240 miles from Saint Louis and 200 miles Kansas City, 300 from Memphis, Tenn., 150 from Indian Terrri- , and over 150 from Fort Smith, Ark.; have a population of 20,000, are increasing in population, wealth, and manufactures, and if rate of increase for the last two years is maintained will, in 1890, a population of 40,000.

ie country tributary to Springfield is unsurpassed in agricultural, ral, stock-raising, and timber resources. The wholesale trade of ngfield extends over Southwest Missouri, Indian Territory, and hwest Arkansas, and amounted in the year of 1885 to more than 00,000.

ringfield has five banks, two national and three private, with a tal stock of $500,000.

ie amount expended in the erection of buildings and improvements vo cities in the year of 1885 was $1,800,000. The cities have sev- lines of street railroad, water works, gas works, and electric light t; have the very best school system, employing 50 teachers; have a ge (Drury) employing 7 professors and a number of teachers in the ary department, an academy (Lorretta) with a full corps of teach- The educational facilities of these cities are unsurpassed.

iere are in operation in these cities three foundries and machine s, which manufacture steam engines, agricultural implements, water- s supplies, &c., six large flouring mills, four planing mills, one large n mill, an extensive woolen mill, tobacco factories, cigar manufac- s, and many other manufacturing establishments, amongst which is xtensive wagon factory employing several hundred men.

ie shops of both the Saint Louis and San Francisco and the Kansas and Springfield and Memphis Railroads are located there. The er shops employ 1,500 men; the latter shops are in process of erec- and when complete will be the most extensive in the State and will oy 2,000 men. The Saint Louis and San Francisco Railroad ex- s from Saint Louis, Mo., to San Francisco, Cal., connecting at Fort

Smith with the southern system of railroads, and at Vinita, Ind. T., with the Texas system. The Kansas City, Springfield, and Memphis Railroad extends from Kansas City, Mo., to Memphis, Tenn., connecting at latter place with roads leading to all Eastern and Southern seaboard cities. There are practically eight roads centering in Springfield.

The land office has been located here for many years, and contains many valuable records. These records are now kept in rooms in the third story of a building very much exposed to fire, and in the event of the building taking fire would be lost.

The mails that are received here necessitate a large force to receive and distribute same, and require a large and properly arranged building to accommodate both the mail in transit and the local mail. The number of employés in both offices is eight, and the rent of buildings that would properly accommodate the people of both cities would be $2,000.

This bill is to consolidate the two offices of Springfield and North Springfield, thus saving the Government $2,500 and giving better facilities for both towns.

The total expense of the two offices for the year 1885 was $6,757.50 and the net revenue to the Government upon expenses $14,000.70.

The committee recommend that the bill be amended as follows: Strike out in lines 16 and 17 "one hundred," and substitute "seventy-five," and that, when so amended, the bill be passed.

C

NGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
sion. } { No. 542.

# FFICE BUILDING AND COURT-HOUSE IN SAN FRANCISCO, CAL.

16, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

LEY, from the Committee on Public Buildings and Grounds, submitted the following

## REPORT:

[To accompany bill S. 1255.]

*mittee on Public Buildings and Grounds, to whom was referred ouse bill No. 174, beg leave to submit the following report:*

n years the people of San Francisco have been petitioning Con- the erection of a public building in a convenient place in that he purpose of accommodating the large postal business of the e United States courts, and other Federal offices.

requests have been made by means of urgent petitions from usiness men, resolutions of the chamber of commerce and board of the city, the municipal government of San Francisco, and e legislature of California. The matter has been thoroughly ted by several committees of Congress, and the erection of the always recommended, but the bills introduced for that purpose led to pass both Houses, not for want of merit, but because e not reached on any of the calendars in time to obtain final ional approval.

ears that the building now used for the post-office is 134 feet feet wide, and three stories high. It was erected thirty years iles driven into the soft ground on the margin of the bay. This foundation has naturally caused the building to settle and d on two occasions, first in 1865 and again in 1868, it was so

interests of that particular locality. So manifest had this inconvenience become, that as long ago as 1878, the Postmaster-General called the attention of Congress to the necessity for a new post-office building. In his annual report for the fiscal year ending June 30, 1878, he says:

The building used in San Francisco for post-office purposes I found from personal inspection to be entirely inadequate to the necessities of the service. San Francisco is the great commercial city of the Pacific coast. Its business and population are constantly increasing, thus adding to the embarrassments inflicted upon the postal service by its present insufficient accommodations. As several years are usually required for the erection of such buildings, and the necessity of the case is urgent, I feel constrained to call the attention of Congress to the subject for such inquiry and action as it may deem proper.

A year later the Postmaster-General, in a letter written upon the subject, again strongly urged the immediate action of Congress in affording relief to the increased postal business of that city. In the year 1878 the gross postal receipts of the San Francisco post-office were $412,349.31. For the year ending June 30, 1885, the gross receipts were $502,303.06, showing a steady increase in business, which must necessarily be transacted in contracted and inconvenient quarters.

In money-order business the San Francisco post-office ranks as the fourth office in importance in the United States.

For the fiscal year ending June 30, 1885, the following money-order transactions are reported by the Post-Office Department: Number of money-orders and postal notes issued, 60,928; amount of money-orders and postal notes issued, $1,082,745.88; number of money-orders and postal notes paid, 201,389; amount of money-orders and postal notes paid, $3,432,504.99; fees received, $9,598.25; number of deposits received from other offices, 17,441; amount of deposits received from other offices, $3,786,410.54.

In the upper stories of this same building is conducted the customs revenue business of one of the largest and most important seaports of the United States.

The customs receipts at San Francisco for the fiscal year ending June 30, 1885, were $6,542,243.69; the internal revenue receipts were $1,983,280; the exports were $38,115,624, and the imports were $35,040,350.

San Francisco ranks as the third city in the Union in the value of her imports, sixth in the value of her exports, fifth in her total trade, and fourth in the amount of customs revenue paid to the General Government.

The clearing-house operations at San Francisco for the year ending October, 1885, amounted to the enormous sum of $562,640,183.

The committee find further that on the same lot belonging to the United States there is a brick building called the "Appraisers' store," in which are located the appraisers' offices, the United States internal revenue offices, the United States district and circuit courts, the United States Coast Survey, and other officers of the Federal Government.

Like the post office, the location of the United States courts in this building is inconvenient and out of the way. The other courts of the city, and the State courts, located in San Francisco, are over a mile distant in the direction in which the city is being extended.

These facts respecting the volume and value of the United States postal and other Government business, and the prospective magnitude of the public interest centering in this growing metropolis of our trade on the Pacific Ocean, convince your committee that ample and immediate provision of grounds and buildings for the accommodation of the

-office and the Federal courts should be made at San Francisco for following reasons:

) The building in use is both unsuitable and inadequate to the pres- needs of the postal service.

) The location is nearly a mile out of the proper place for a post-office ding. When a city like San Francisco pays the Government over lf a million of dollars annually for postage it has a right to expect : in the location of the post-office the Government will consult some- t the convenience of its citizens.

) The ground on which the present building stands, while quite out ıe way for a post-office site, is well enough adapted for the customs- ınue service, and that portion of the building into which the post- e is now cramped is needed for that service.

) That portion of the appraiser's store in which the United States ts are now located is required for the accommodation of the officers ıected with the revenue service.

our committee therefore have no doubt of the propriety of making ıediate provision for procuring a suitable site in San Francisco upon ch to erect a building for the accommodation of the post-office and ted States courts, and they recommend the passage of Senate bill ; for that purpose as a substitute for House bill 174.

C

CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
t Session. } { No. 543.

# BRIDGET SHERLOCK.

ARY 16, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

LATSON, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 556.]

*Committee on Invalid Pensions, to whom was referred House bill 556, beg leave to submit the following report:*

bill for the relief of this claimant having been reported favorably is committee and passed the House, Forty-eighth Congress, and aving been reached in the Senate, your committee adopt the printed t of this committee, Forty-eighth Congress, as follows:

*ommittee on Invalid Pensions, to whom was referred the bill (H. R. 556) granting a on to Bridget Sherlock, have had the same under consideration, and beg leave to re- as follows:*

hen Sherlock enlisted as a private soldier in Company F, Fifteenth Indiana Vol- s, on the 14th day of June, 1861, and served as such until the 23d day of Novem- 862, when he was honorably discharged by the order of General Rosecrans certificate of disability given to him as the result of a severe injury received the siege of Corinth, "resulting in scrotal hernia, and numbness and difficulty g the lower extremities. His case is one of very bad scrotal hernia, caused by ver a log, May 10, 1862, in front of Corinth, while carrying a heavy load of pon his shoulder for the purpose of building a road over which to pass the ar- and wagons during that memorable siege." The above is the language of the ate. He was the son of Patrick and Bridget Sherlock, who were, at the time enlistment, quite old and feeble, and depended largely upon said Stephen for ort. After his discharge he returned to the home of his parents, at Bedford, nd within a few months took employment on the Louisville, New Albany and o Railroad as the conductor of a freight train. It is clearly shown by the tes- of the family physician that his disability continued until his death, and that approached a condition of paralysis that would probably have rendered him helpless.

le in the employ of the railroad company, as aforesaid, in leaving the train, cause of his disability contracted in the Army, he fell under the wheels of the nd was so injured that his left foot was amputated. By reason of the weak feebled condition of his blood erysipelas resulted, and he died of that disease. use he did not die of the injury which he received in the Army his mother's or pension was rejected. His father is dead, and his mother is now nearly years of age and has no property. The evidence of her dependence at the f his death is clear and convincing.

committee think that, under all the circumstances, she should be pensioned. son had not met his death he would have been pensioned long ago upon the made by the Government as to his injury in the service. He did not get any ; his mother should, and the committee therefore recommend the passage of ompanying bill.

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 544.

# ROBERT J. McALEXANDER.

BRUARY 16, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

. MATSON, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 464.]

*e Committee on Invalid Pensions, to whom was referred the bill (H. R. 64) granting a pension to Robert J. McAlexander, submit the following eport:*

Robert J. McAlexander, late a private in Company F, Eighty-seventh liana Volunteers, asks that a pension be granted him for a disability urred in the line of duty in the battle of Chickamauga, Georgia, Sep- ber 19, 1863. The records show that he enlisted in the service August 1862, and was discharged June 10, 1865. He was on detached duty orderly at brigade headquarters, and entered the battle of Chicka- uga a sound and robust man. During the fight a cannon ball killed horse under him, and in the fall that immediately followed, the pom- l of claimant's saddle struck him in the lower part of the bowels and licted severe injury to groins.

While there was no eye-witness to this mishap the surrounding cir- mstances are such as to clearly establish the incurrence of the injury stated by the claimant in his declaration.

The claimant's petition for pension was denied upon the ground that ere existed no connecting medical evidence from time of receiving in- ry to the time it developed proper, between the 6th and 12th of June, 67.

Dr. Charles E. Triplett, late surgeon of the Eighty-seventh Regiment diana Volunteers, testifies that he treated claimant on the battle-field Chickamauga, Georgia, for injuries in the bowels and groins, and ld claimant at the time that the injury would result in a double rupt- e. The doctor further states that claimant was a brave and valiant ldier.

Horace C. Long, late captain of Company F, Eighty-seventh Indiana lunteers, testifies that he saw claimant go into the battle of Chicka- uga with General Vandever and his escort; that soon after the said Alexander's mishap—which was that his horse was struck by a can- n-ball, and fell upon him, injuring his groins and the lower part of belly, which subsequently resulted in rupture—he, the affiant, was ormed of the fact, as it was near his regiment that the injury oc- rred. Captain Long states that he was not an eye-witness to the oc- rrence, but the surrounding circumstances were such that he has no ubt whatever as to the facts as previously set forth. He further states

that McAlexander was a brave soldier and faithful to every duty, serving his entire time of enlistment, from 1862 to 1865, in active service, and had he gone to the hospital after receiving his injury he could very easily have had a hospital record sufficient to give him a pension, but as he was full of "eternal grit" he continued in the line of duty although suffering continuously, until honorably discharged at the close of the war.

Other comrades testify to having heard of incurrence of injuries by claimant at the time of the battle, but your committee is of the opinion that sufficient facts have been adduced to show that this is a meritorious case and the claimant justly entitled to the relief provided in the accompanying bill, with the following amendment: Strike out of lines 3 and 4 the word "ordered," and insert instead thereof the words "authorized and directed."

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ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 545.

# THOMAS FERGUSON.

Y 16, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

TSON, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 533.]

*nmittee on Invalid Pensions, to whom was referred the bill (H. R. for the relief of Thomas Ferguson, submit the following report:*

ccompanying bill having passed this Committee and the House, ighth Congress, and not having been reached in the Senate, your tee adopt the report of this Committee of the Forty-eighth Cons follows:

homas Ferguson enlisted in the military service of the United States as a 1 Company B, Ninety-first Regiment Indiana Volunteers, August 10, 1862, lischarged on surgeon's certificate of disability, for paralysis of bladder and iarrhea.

ry 12, 1868, he was pensioned at the rate of $6 per month for atrophy of nd penis; March 8, 1869, increased to $8, and November 25, 1873, to $18 per r spinal disease.

ber 2, 1878, the name of pensioner was dropped from the roll by order of the of the Interior, on evidence submitted by a special examiner of the Pension it the disability for which claimant was pensioned was due to intemperate d not to his military service. The evidence in support of this charge is en-*parte*, and without notice to claimant.

A. West, of Pleasantville, Pike County, Indiana, testified September 16, t he has practiced medicine for five years and has treated claimant for spinal nd that he has been a constant sufferer from said disease; that he knows ts from personal observation.

'arrington, M. D., of Spurgeon, Pike County, Indiana, testifies (November 9, t for three years after the war claimant was a sober man, as he knows of knowledge; that he is now a man of temperate habits, but he is informed ssipated three or four years ago.

ck Gyring, J. M. Fleeneer, Jacob Lyring, Hiram Williams, and Thomas all citizens of Pike County, certified to be reputable citizens and witnesses itements are entitled to full credit, testify to substantially the same facts as en by Dr. Harrington.

e examined all the evidence in this case very carefully, and find the soldier harged from the service on account of the disability for which he was penhat the numerous medical examinations by different United States surgeons ls all agree as to the nature and extent of his disability, and its continuance date of incurrence while in the service and in line of duty to the present, a clear preponderance of the evidence is in favor of the restoration of the the pension-roll, and accordingly your committee recommend the passage companying bill.

CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. { { No. 546.

# THOMAS SIMPSON.

'ARY 16, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

VATSON, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 3326.]

*'ommittee on Invalid Pensions, to whom was referred the bill (H. R. 6) granting a pension to Thomas Simpson, submit the following re- t:*

is committee of the Forty-eighth Congress reported a bill favorably he relief of this claimant, the same having passed the House but l consideration in the Senate. Your committee now adopt the ed report of this committee Forty-eighth Congress:

*'ommittee on Invalid Pensions, to whom was referred the bill (H. R. 3326) granting a ion to Thomas Simpson, late of the Seventh Indiana Battery, beg to offer the follow- report:*

claimant, Simpson, enlisted January 2, 1864, as a private in the Seventh In- Battery. At that time the evidence is conclusive that he was a strong and y man.

ge C. Masterman, who was second lieutenant of the battery, testifies that, on at the 22d of July, 1864, at Atlanta, Ga., the battery was ordered into position; e claimant, with others, was ordered in front of the battery to carry rails to breastworks; while so engaged the order was given to fire; Simpson not being of the order came immediately in range of one of the guns, the concussion of the r the powder knocking him down, rendering him insensible for fifteen or twenty s, he being so close to the gun that his face was blackened by the powder. after this occurrence he was never able to do full duty again during the re- er of his term of service; that before this he had always been able to do duty times.

rades Fletcher, Johnson, and Deford all testify substantially to the foregoing, ; they were present and witnessed the occurrence and that they cannot be mis- about it.

evidence is that there was no surgeon with the battery regularly; that occa- ly one would be detailed, but would remain only a short time. The records of rgeon-General's Office show that Simpson was admitted to general hospital at sonville, Ind., May 23, 1865, from New Albany, Ind., as convalescent (no other di- is), and returned to duty June 8, 1865. That the regimental records are not on Claimant was discharged July 13, 1865, under provisions of General Order No. partment of Kentucky. His neighbors who were acquainted with him before ered the service testify that since discharge he has not been able to perform for at least two-thirds to three-fourths of the time.

claimant filed application for a pension in June, 1866, and alleged partial deaf- nd blindness. Also incapacity to do manual labor, caused by concussion. This en rejected by the Pension Office for the reason that the medical examination ot disclose the fact that applicant was injured to the extent of preventing him btaining a living by manual labor. Against this, however, is the testimony of ghbors, who all unite in saying that they knew him before he entered the service strong, healthy man, and since discharge that he is a broken-down man and le to do manual labor; that his injury has developed into epilepsy, and at the t time that he is totally incapacitated from earning a living by manual labor. r committee recommend the passage of the accompanying bill.

O

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 547.

# DELILAH KNILL.

RUARY 16, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

. WINANS, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 2689.]

*Committee on Invalid Pensions, to whom was referred the bill (H. R. 689) granting a pension to Delilah Knill, submit the following report:*

That Delilah Knill is the widow of Thomas H. Knill, Company D, ond Regiment Wisconsin Infantry Volunteers.

He enlisted April 20, 1861, and was discharged March 23, 1863, on geon's certificate for gunshot wound on the back of right hand, com- tely destroying the functions of the extensor tendons. The wound s received in battle near Gainesville, September 28, 1862. Govern- nt granted him a pension for his disability at $6, $8, and $15 per nth up to the time of his death, April 19, 1883. The widow filed ap- cation for pension in her own right June 17, 1884, which was rejected the ground that the soldier's death was accidental and not due to service.

t appears the soldier at the time of his death was attending an engine the Norwegian Plow Works, in the city of Beloit, Wis. It happened follows: He was putting rosin on the belt from the main shaft of the gine, for which purpose he stepped on a block used for that purpose, ich stood between the wheel and the wall and was about 2 feet high; t in stepping down off the block his foot turned and he stumbled and directly into the wheel and was instantly killed. Had he not been pled in his right hand this would not have happened, because close the block on his right hand was a bench used for support, which he uld have caught and not fallen, but having in his left hand the rosin l the right being crippled by the gunshot received in battle, he was able to save himself from the fall and consequent death. This is testimony of J. C. Bokardy, an eye-witness whose reputation is cer- ed as good.

t seems to your committee that it is not a forced or strained conclu- n to connect the death of this soldier with his military service. All circumstances connected with it are so natural and easy to under- nd that there is hardly a doubt that if his good right hand had not n rendered useless in the defense of the nation's life, it could easily e saved his own by holding to the support within his reach.

t is further shown that Delilah Knill is poor, and since the death of husband depends solely on her daily labor her own and children's sup-

port. This appears from the testimony of the present mayor, ı and aldermen of the city of Beloit. All the evidence points to that she is the worthy widow of a brave and worthy soldier, a the Commissioner of Pensions is clearly in the right in rejec claim under the pension law, we believe it is a case appealing for Congressional relief, and we therefore amend the bill by str all of lines 8 and 9, and recommend that the bill do pass.

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 548.

# TOBIAS M. COON.

Y 16, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

NANS, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4976.]

*mittee on Invalid Pensions, to whom was referred the bill (H. R. for the relief of Tobias M. Coon, have considered the same and re-*

Tobias M. Coon enlisted in Company A, One hundred and eight-egiment Ohio Volunteers, August 12, 1862, and was discharged 1865. He applied for a pension December 23, 1878, alleging y from gunshot wound in left leg above the knee, received at le of Mossy Creek, in the State of Tennessee, December 29, ich has caused continuous and permanent lameness. His claim cted February 2, 1885, on the ground that evidence in a special tion showed that claimant was not wounded in the service as This testimony was given by Isaac Coon and Tobias P. Coon, r and nephew of claimant, who were comrades, and in the action e wound as claimed was received. They say after the charge, anding in the ranks, they saw the hole in claimant's pants, but ball did not enter the leg. Tobias P. said he saw the spot a hour after it was done; it was black and about an inch wide; imant did not leave the company till May, 1864, when he was sent to hospital, and contracted scrofula, to which he attributes t's lameness. The hospital records say claimant had "diarrhea in May, 1864, and again, in November, 1864, intermittent fever; tion of scurvy or scrofula. Isaac Coon says his lameness is by bone scurvy.

e testimony agrees that claimant was struck or grazed by a ball me and place as claimed, and that the disability exists.

W. Kincaid, lieutenant Company A, One hundred and eight-egiment Ohio Volunteers, says, at a place called Mossy Creek, out the 29th of December, 1863, claimant received a gunshot f left leg above the knee, causing lameness of left leg; that he his fact from personal knowledge.

on William H. Philips states that he knew Tobias M. Coon, of y A, One hundred and eighteenth Ohio; that he was surgeon regiment from September, 1862, to May, 1864; that in an en-t with the enemy near Mossy Creek, East Tennessee, Decem-1863, claimant was wounded by the entrance of a ball upon the *surface of the left knee-joint*, just in front of the inner surface of

would seem to indicate, or from scurvy, as the brother and ne
say, the fact of disability as claimed exists and is not disputed. '
is nothing to show that good and faithful service was not render
this soldier. There is no claim of prior unsoundness; none that h
not in line of duty. If in filing his declaration he had claim
be suffering from the various ills flesh is heir to, then, whether gu
or scurvy, his just claim for a disability could have been allowed
arrears.

Your committee recommend the passage of the bill.

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 549.

# JOHN W. ROBSON.

RY 16, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

INANS, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 2753.]

*mmittee on Invalid Pensions, to whom was referred House bill* 2753, *having had the same under consideration, report:*

: a similar bill was introduced in the Forty eighth Congress, and ed favorably, which report we adopt as our own, and is hereby ted as follows:

[House Report No. 1938, Forty-eighth Congress, first session.]

*mittee on Invalid Pensions, to which was referred the bill (H. R.* 3833) *for the re- f John W. Robson, having had the same under consideration, hereby submits the fol- y:*

ccompanying bill asks that John W. Robson, of Madison, Wis., be placed upon sion-rolls of his country, subject to all the limitations and provisions of the law.

ase is a sad one, and his cause meritorious to the last degree, the history of hall be briefly recited.

W. Robson, a native of Great Britain, who came to America in 1850, en- s a private at Milwaukee, Wis., in the Sixth Battery, Wisconsin Volunteers, ber 13, 1861, going at once into training at Camp Utley, Racine, Wis. After g a little less than two months, he was not mustered in, but was discharged, is body lacked half an inch of the prescribed height. He thus not only lost sation during that period, but lost his own time and the proceeds of his private s, and was compelled to beat his way home without money, being aided a of the way by the kindness of a benevolent lady, who, hearing his parley with way conductor, paid the required fare.

months later, being still anxious to serve his adopted country, Mr. Robson ormed by Lieut. A. W. Bishop, now of the Regular Army, that the question of ize would probably not be again raised against him, as the needs of the Gov- t were becoming more urgent, and to recruit a company of eleven men and ld have a suitable office as a reward. He therefore recruited in Sauk County, sin, the company of eleven soldiers.

e mean time Lieut. John W. Fancher returned and began recruiting for the Battery, and wanted Mr. Robson and his recruits. As the Sixth Battery was in which he originally enlisted, he went to Milwaukee, taking the eleven re- all of whom enlisted with him. Not having a knowledge of the ways of the Mr. Robson received no commission for his successful recruiting and enlist- ut went into and through the rebellion as a private, while the credit that be- to him was enjoyed by Lieutenant Fancher.

gathering several deserters and about thirty volunteers, Mr. Robson was sent ront in charge of them, arriving at Rienzi, Miss., within twenty days and in participate in the terrible battle of Corinth, October 3 and 4, 1862, which was

the first engagement of the Sixth Wisconsin Battery, that had enlisted more than a year before, and from which he had been excluded, as already mentioned.

Thus Mr. Robson, by reason of having been discharged for short stature, lacked about ninety days of being able to veteranize under the act of Congress of 1863. Those who enlisted first with him veteranized under that act and re-enlisted, receiving $400 bounty and a forty-day furlough each. He had enlisted with them, but could not veteranize nor receive a furlough or a bounty. He participated in all the battles of his battery, and also served during the period while the veterans were enjoying their bounties and furloughs at home.

He was mustered out in July, 1865, having fought as long and in as many battles, for half as much money, as those who enlisted at the time of his first enlistment.

On returning home, he was taken ill with rheumatism, chills and fever, and the malarious diseases contracted during Army life. He was better and worse at intervals, sometimes confined to his room, and sometimes able to be out. While partially convalescent, he was asked by Nye J. Gibbs, adjutant-general of Wisconsin, to superintend the firing of a national salute on the 22d of February, 1866, in celebration of Washington's birthday.

Being an expert artilleryman, which was the reason of the request, he complied, though too ill to attempt any labor or business, and began firing from a cannon relinquished by the Federal Government. The gun, having an imperfection, of which fact, however, he was not aware, exploded a charge prematurely, and severed his right arm at the shoulder, and otherwise severely injured him.

The wounds were at once aggravated by the malarious poisons which his system had absorbed in the South, and which were still further developed and brought into activity by those injuries, and he is not healed to this day. For five years he was unable to walk without a staff, and unable to work. For weeks and months together it was necessary to keep a child or nurse to carry food or drink to his mouth, so deeply were his bones affected by this malaria.

Finally the insidious poison left the wounded part, and concentrated itself in his head. A portion of the skull bone was cleft; other portions are now loosening; the cranium is bare, cracked and feverish, a source of infinite pain, suffering, trouble, and expense, and in such condition as to render traveling away from home impossible without an attendant.

Thus Mr. Robson, who served valiantly through the rebellion with his two brothers, is not only disabled for life, but is also an invalid for life. He was ill at the time of firing the salute of February 22, 1866, the direct effects of his army life; but as he had no hospital record, having served every day without a moment's furlough, and as his legitimate army illness was so overshadowed by and merged in with the results of the accident just mentioned that he and his physicians were for the time unable to clearly separate the legitimate results of the two, he did not apply for a pension. These same difficulties have ever since restrained him from asking an annuity under the general pension laws, though, with his friends, he never doubted the justness of his claims.

He was preparing to make an application for a pension when the explosion took place; but after that the physician who attended him (Dr. A. H. Rudd) died; the old war diseases mixed and merged with the wounds resulting from the explosion so that subsequent medical advisers were unable to testify to his exact condition before the injury, though they agreed that his terrible afflictions were originally caused by army life, and thus he has been dragged along, close companions of despair, alternately renewed and deferred hope and poverty.

If those who wish, in dealing with the soldiers, to make the word of promise to the ear and break it to the heart, desire, they can, indeed, balance themselves on the technical point that Mr. Robson did not suffer *all* his disabilities in battle; but he served every day for over three years faithfully and gallantly in the rebellion; the fact that he was one-fourth of an inch under the prescribed standard height deprived him of those bounties, privileges, and emoluments enjoyed by his taller comrades who enlisted with him; he gave his skill and services to fire a national salute in honor of the birth of the Father of his Country, which resulted in shattering an arm and shoulder, and intensifying the operations of the malaria absorbed in the army; in short, he is disabled, one-armed, and an invalid for life, because, and only because, he was a soldier.

His present deplorable condition of poverty and physical ailments are the direct result of his service to his country, without any qualification or reservation whatever. Because, then, the circumstances attending his disability were such that it would be difficult for him to secure an adequate annuity under the general pension laws, should he, amidst so many recipients of aid by special act of Congress, be denied justice?

Mr. Robson, when the country was in the throes of civil war and the result was quivering in the balance, might have fortified himself behind a technicality and even escaped the draft by showing that he was less than the standard height. But he did not. After being rejected once for this reason he tried again, when times were more

us, and every faithful, patriotic volunteer was a precious gift, and being ac-
in spite of the technicality of short stature, bore the burden of a private gun-
:he end of the rebellion.
:his great Government, which he helped to save, and for and in whose service
been physically ruined, now hide behind a paltry technicality, which he scorned
ıour of need, and deny him a few crumbs from our bursting Treasury? This
ment must be just if not generous. It has been generous with thousands; let
be be just with this one crippled, sick, and pensionless veteran, the son of a
country, who can rest his cause upon nothing but his own merits and the hon-
intentions and correct judgment of the Congress of the United States. Do not
him aside like an old stage-horse, because the country has had the benefit of
th and strength, and has no further use for his sick and crippled body, for the
ay come when we shall need the services of his young sons now struggling on
ı the poverty that patriotism entailed upon their father and upon them.
refore your committee recommends the passage of said bill.

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ITH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 550.

# AMENDING THE REVISED STATUTES.

EBRUARY 16, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Ir. MORRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4915.]

*he Committee on Invalid Pensions, to whom was referred the bill (H. R. 4915) to amend paragraph 3, of section 4693 of the Revised Statutes, and for other purposes, submit the following report:*

The bill under consideration proposes to repeal the limitation prescribed against persons not enlisted in the Army of the United States, ut who, while serving for the time being as members of the militia of ny State, under orders of an officer of the United States, were disabled consequence of wounds or injuries received in any engagement with bels or Indians.

This class of persons was first provided for in section 9 of the act of ly 4, 1864, which also made provisions for the widows or dependents such persons as may have been killed in such temporary service, proled, however, a claim under said section was prosecuted to a successl issue prior to July 4, 1867. No further provisions for militiamen re made until March 3, 1873, when, under the act of that date, the nitation in this class of claims was further extended to July 4, 1874.

Several States of the Union organized their militia forces during the e war to aid the regular forces of the United States in the suppression the rebellion. Among the States most forward in the organization of eir militia forces were Kentucky, West Virginia, Kansas, and Misuri, in particular, the latter.

Under an agreement entered into between the President of the United ates and the governor of the State of Missouri, the latter, under date July 22, 1862, called into service all arms-bearing citizens of that ate. About eighty regiments were organized, and although not conantly in the service, were more or less in the field aiding and assisting e forces of the United States in driving from the State the numerous iding parties of the Confederates, as well as in the protection of Govnment property, and in particular in the carrying of the mails, which those days were transported principally by stage.

A large amount of Government stores at Springfield, Mo., for the use f the armies operating in Missouri, Arkansas, and Indian Territory, ere saved from capture by the Confederate forces under General Marmaduke by the militia of the State, in January, 1863. Shortly thereafter a raid into the State by General Shelby proved unsuccessful by eason of the timely concentration of the militia forces. The services of

war, did noble work for the cause of the Union, in fact were localities the only protection of the homes and property of th sympathized with the Union or had joined the regular volunte of the North, and on many occasions were called upon to meet array the much better organized forces of the Confederacy.

A serious outbreak of the then powerful tribe of Sioux Indian nesota, in the summer of 1862, threatened destruction of life a erty in a section of the country then unprotected by a milita equal to the emergency. The timely organization of the militi State, however, soon restored peace and safety to the community by this outbreak, not, however, without serious loss of life a casualties among the ranks of the militia.

A number of State militiamen wounded in battle, as well as wido of others who lost their lives while in this temporary service, upon the pension-rolls, because they were apprised of their rig were able to substantiate the same within the period prescribed while many others, who were injured under like circumstances, lost upon the field of battle a husband or father, ignorant of thei or unable to satisfy the Pension Office of the merits of their re claims, are, because of the limitation heretofore referred to, s from the help which the Government so liberally bestows upo of its defenders.

Every session of Congress this committee is called upon to t nizance of a number of cases of this now barred class of claima

The merit of this class of cases, is as a rule, not questioned, a gress has always granted the relief asked for.

Your committee fail to see the propriety in continuing in f statute which necessitates special action in each individual cas out of this service, and therefore report favorably on the bill that it do pass.

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
lession. } { No. 551.

# FIDELIA A. CHENEY.

Y 16, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

OPE, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 2197.]

*mittee on Invalid Pensions, to whom was referred the bill (H. R. placing on the pension roll the name of Fidelia A. Cheney, widow arles S. Cheney, late a soldier of Company G, Ninth Pennsylvania ves, have had the same under consideration and make the following t:*

es A. Cheney enlisted as a private in Company G, Ninth Penn- a Reserves, on the 22d day of July, 1861, and was discharged ry 8, 1862. The soldier alleges that, September 12, 1861, while et at Great Falls, Md., he took cold, diarrhea, fever, with rheu- affecting heart and lungs, also partial loss of hearing, for which s he claimed pension. He died the 26th day of May, 1885, as is by his widow, claimant under this bill, from disease contracted ine of duty. The Pension Office rejected the widow's claim be- ie soldier's death was "not due to disease contracted in the serv- eging that there was no satisfactory evidence that the soldier eumatism in the service, and that the record shows that he had y of foot at time of his enlistment, "which no doubt accounts ameness."

). S. Marquis, December 13, 1879, testifies to soundness prior to ent.

Fogarty and Thomas Ryan, neighbors, make joint affidavit as oundness prior to enlistment.

other parties certify as to prior soundness.

Swearinger, late adjutant of claimant's regiment, April, 1879, that claimant was discharged for disability.

B. Bookbank, late captain of claimant's company, testifies, De- 13, 1879, that claimant, while on picket at Great Falls, Md., ber 12, 1861, became sick, and was sent to hospital by rea- rheumatism. He returned to company after many weeks, and er after able to perform duty, and was examined by a surgeon lered discharged by reason of rheumatism contracted in service.

Hunter, late lieutenant of claimant's company, December 13, ys that claimant was taken sick at the time and place alleged, s discharged as an invalid.

). A. Craig, January 3, 1882, testifies that he knew claimant and a half years ago. He was then suffering from rheumatism,

heart and lung diseases. These complaint's have progressed slowly, year by year, since.

H. A. Eliott knew claimant in September, 1862. He was then suffering from rheumatism and deafness.

Two other witnesses testify the same.

William Gray, in an affidavit September 24, 1881, testifies that he met Charles S. Cheney at Alexandria, Va., some time in the year 1862, at which time he was confined to the house, suffering with diseases contracted in the service.

William Gray, A. B. Smiley, A. S. McDowell, and James Seaton testify that in 1861, up to the time of his enlistment, and for at least one year and a half prior thereto, they saw the said Charles S. Cheney almost daily; that during said time he was employed at Clinton mines, in Fayette County, Pennsylvania, as a tippleman, at which work he made a full hand, and had the appearance of a man in good health; that he showed no indications of rheumatism or heart disease, or any defect of hearing, and they never heard him complain of any of said diseases.

Charles Cheney and Mary A. Cheney, father and mother of the applicant, in an affidavit made December 23, 1881, testify—

That their said son, from discharge to 1876, was able to do merely light work three-fourths of his time, and since that has been unable to do any work at all; that his hearing was dull when discharged, resulting from fever, and has grown gradually worse from year to year, so that he can now scarcely hear at all; that they firmly believe all the diseases with which he is now suffering are the direct result of sickness contracted in the Army.

On the 13th of April, 1881, the parents testify—

That at date of and prior to enlistment, the applicant was in sound health, able to tipple 3,000 bushels per day; that when he returned home in February, 1862, he was an invalid, emaciated and reduced, and has been an invalid ever since; that his troubles seem to be deafness, rheumatism, and heart disease, the direct result, as they believe from all they have been able to learn, of a severe and protracted spell of camp or typhoid fever, contracted after he entered, and while in, the Army; that he has not been able to do any ordinarily heavy manual labor since discharge.

Dr. S. A. Craig testifies that—

he attended the soldier since 1878, and that he required closer attention year after year; that during 1884 his visits became more frequent, as he was then confined almost entirely to his house. Immediate cause of death, exhaustion.

An examination of the testimony in this case, which is very voluminous, has fully satisfied your committee on the following points:

(1) That the soldier at time of his enlistment was in good health, and there is no evidence of any prior unsoundness except a slight cut in one of his feet when a boy, which had no connection whatever with the diseases causing his death.

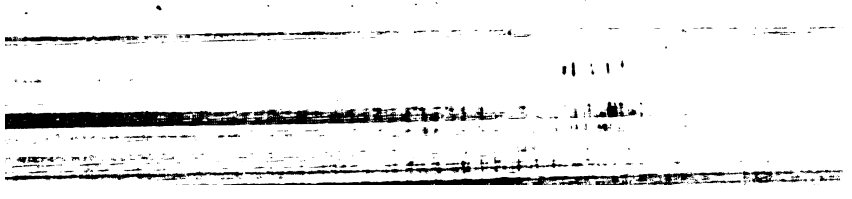
(2) That the soldier whilst on picket with his command in the field in September, 1861, contracted a severe cold, which resulted in typhoid fever, followed by heart affection and rheumatism, by which he was disabled from further duty in field, for which he was discharged February 8, 1862.

The testimony of numerous witnesses goes to show that the claimant from his discharge continued to suffer from these diseases, which became aggravated from year to year until, as is shown by the affidavit of Dr. S. A. Craig, his attending physician, he died of heart trouble, pulmonary trouble, and exhaustion.

Shortly after claimant's discharge he was granted a pension for deafness, resulting from the attack of typhoid fever in the service.

tention of those who investigated the case seems to have been wholly to this deafness, and which was only one, and, in the of your committee, the least important, of the consequences of oid fever from which he suffered in the Army.

the evidence, your committee are of the opinion that the soldier n a sickness the result of disease incurred in the service in line and they recommend that his widow be granted the relief r, and that the bill do pass.



TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 552.

# SARAH A. GETTIS.

BRUARY 16, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

r. SWOPE, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 2196.]

*he Committee on Invalid Pensions, to whom was referred the bill (H. R. 2196) granting a pension to Sarah A. Gettis, dependent mother of Lewis J. Gettis, deceased, late a private in Company I, Thirtieth Iowa Infantry Volunteers, have had the same under consideration and respectfully report:*

That an examination of the testimony on file in this case shows be-
ond doubt the following facts:
The Pension Office, in its review of the case, says:

There is no question as to death of son in line of duty and of dependence of mother. e point involved is, did the son recognize the obligation and aid in maintenance of ther?

They concede that he aided to the extent of his ability in support of s mother prior to his going to Iowa, but they reject the claim upon ound of want of evidence of his contributing to her support during s absence in Iowa. As to this point the evidence adduced from some eighbors well acquainted with the family goes to show that the object his trip to Iowa was to try to secure a home for his mother there, nd want of success in a boy of fifteen years of age in an undertaking that kind ought to be no great matter of surprise, and certainly hould not be considered as evidence of any indisposition on his part contribute to his mother's support. It is further stated that when is mother objected to his enlistment it was urged, and her son conented to the plea, that he could better contribute to her support with is pay.

Soldier in this case enlisted in Company I, Thirtieth Iowa Volunteers, the 22d of August, 1862, being then a little under seventeen years of ge. He went with his regiment to the field, took sick, and was sent to e hospital, and died on the 2d of November, 1862, after a short illness disease contracted in the service in line of duty. His mother, Sarah . Gettis, was, at the time of his enlistment and many years prior ereto, a widow, and yet remains a widow. It is proven that she was time of soldier's enlistment, and for several years prior thereto, a or woman without property and that she now is entirely dependent on her own labor for support; that soldier was her only child, and at she was up to the time he started to Iowa partially dependent

upon him for support, having nothing besides except the frui
own labor, which was as domestic or charwoman.

The testimony in this case is very voluminous, and an exami
it has satisfied your committee that the soldier had contribute
support of his mother prior to enlistment; that he proposed c
ing more largely from his pay, but which intentions were, howe
trated by his early death; that the mother was largely depend
him at the time, and stands in need of his services more and
age advances.

Your committee therefore recommend the passage of the bill

H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 553.

# PETER F. SEAMAN.

EBRUARY 16, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

r. SWOPE, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 1988.]

*he Committee on Invalid Pensions, to whom was referred the bill (H. R. 1988) granting a pension to Peter F. Seaman, respectfully report:*

Peter F. Seaman was enrolled July 7, 1861, at Harrisburg, Pa., in mpany I, Seventh Regiment Pennsylvania Volunteers. May 5, 1864, s company was in action at the Wilderness, Virginia, on which occa- on he was captured, and released February 27, 1865. Prisoner of ar record shows this soldier captured as above, and paroled at North arolina Ferry, N. C., February 26, 1865.

This soldier claims a pension for hernia, which he alleges occurred hilst he was a prisoner at Andersonville, and was rejected because there is no record of alleged disability. Inability to furnish testimony howing the existence of alleged disability while in the service or at the ate of his discharge." His case was also unfavorably reported by the Committee on Invalid Pensions, Forty-eighth Congress, "because there s no evidence of the disability in the military service." Because of he rejection of the claim by the Pension Office, and the unfavorable re- ort upon it in the Forty-eighth Congress, your present committee have ade a thorough examination of it. Peter F. Seaman was not pres- nt at the muster out roll of his company, dated June 16, 1864, at which ne their three years' service had expired, but he was mustered out pril 3, 1865, with remarks, "Captured May 5, 1864, at the Wilderness, irginia."

With respect to his soundness previous to enlistment, Dr. P. J. Tryon stifies to having been the family physician, but says that he never had m under treatment, and that to the best of his knowledge he was not ptured before the war.

A. Ziegler, late lieutenant, Company I, Seventh Pennsylvania Volun- ers, testifies:

That he was well acquainted with claimant at the time of his enlistment; that he as in good health, was "examined and passed a creditable examination," and that e examining officers were particular in not taking any that were ruptured; that on about September, 1864, at Andersonville, he, the said claimant, was ruptured. is occurred under circumstances unknown to me, as I was not confined in the same ison with claimant,

John Musenker testifies:

That claimant came to Ashland in spring of 1865, and engaged in business, and at through conversation both he and others became aware that he was ruptured.

Peter Bastian testifies that claimant lived in his house for some years, and learned through conversation with him that he was ruptured, "got worse, and was compelled to wear a truss."

In his statement claimant says that he never showed the rupture to any one, except his family physician, who has since died.

Comrade A. Miller states that he was taken prisoner with claimant; that he was free from rupture when he enlisted, and that to the best of his knowledge he was ruptured at Andersonville, but that it did not come to his knowledge until at Florence in November, 1864.

A. Shipper testifies that claimant was free from rupture when enlisted, and knows he got ruptured while confined in Andersonville, September, 1864.

E. R. Scholl, examining surgeon, under date of December 17, 1878, says that Peter F. Seaman is one-half of total incapacitated from obtaining his subsistence by manual labor; that he has scrotal hernia on the left side, and is obliged to wear a truss.

A perusal of some of the testimony has satisfied your committee of the entire good faith and sincerity of this claimant. The injury is alleged to have occurred at Andersonville prison, and proof of its incurrence is, from the nature of the case, next to impossible, nor can it reasonably be expected.

Nor did he immediately upon his release occupy himself in endeavoring to procure proof to substantiate his claim. He, however, showed his injury to his family physician, who, unfortunately for the claimant, is since dead. If this soldier had been a different style of man to what his letters indicate him to be he might be in possession of such proofs as would satisfy the most exacting. But he says:

> At the time of my enlistment I did not inquire whether I was to receive pay or not. I knew the country was in danger, and that the Government was in need of such men as I was at that time, and I at once left home to serve it. I served it faithfully for three years; was confined for nine long months; was ruptured whilst in prison, and from that cause cannot follow my trade (carpenter and wheelwright).

Men inspired by such motives do not usually look forward as to how they may be personally benefited; they neglect the "main chance," and it often happens that though by far the most deserving they are the least able to substantiate their claims.

Your committee, however, are of the opinion that this soldier entered the service a sound man; that he was ruptured whilst a prisoner at Andersonville; that his disability still continues so as to prevent his earning his living by manual labor, and they therefore report this bill favorably and recommend that it do pass.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 554.

# MRS. ANNA HOUGHTELIN.

FEBRUARY 16, 1886.—Laid on the table and ordered to be printed.

Mr. SWOPE, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4227.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4227) granting a pension to Mrs. Anna Houghtelin, submit the following report:*

Mrs. Anna Houghtelin, for whose relief this bill was presented, having died since, your committee therefore recommend that the bill lie on the table, and that they be discharged from further consideration of the same.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 555.

# DANIEL S. GRAVES.

FEBRUARY 16, 1886.—Laid on the table and ordered to be printed.

Mr. SWOPE, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 2160.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2160), for the relief of D. S. Graves, have examined the same and make the following report:*

Daniel Graves was enrolled June 1, 1861, as a private in Company C, Seventy-fourth Regiment New York Volunteers. He was transferred to Company K, September or October, 1862; was mustered out with Company C, July 6, 1864.

This soldier claims that he was wounded on or about May 10, while in line of battle at Spottsylvania Court-House; that he was wounded by a ball which took effect in left side, just above the hip; that this wound is very painful at times, rendering him unable to perform manual labor.

The records of the Adjutant-General's Office show no evidence that this man was wounded; no evidence on company rolls or returns.

The examining surgeon reports:

> We find no marks of gunshot wound; we find no swelling, adhesions, discoloration, or other structural changes. He is in a good state of health and flesh.

Inasmuch as there is no record of this soldier having been wounded, nor any physical signs to indicate it, your committee report adversely, and recommend that this bill lie on the table.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 556.

# JOHN F. DONABOWER.

FEBRUARY 16, 1886.—Laid on the table and ordered to be printed.

Mr. SWOPE, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 1986.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1986) granting a pension to John F. Donabower, have examined the same, and respectfully report:*

That this claimant was mustered in January 2, 1864, and mustered out December 25, 1865.

The evidence shows that whilst on the Red River he complained of a sore leg, for which he was afterwards treated in hospital. There was some soreness at and after his discharge, but scarcely of a pensionable degree. The board of medical examiners, in their report made August 30, 1864, say:

> There are a few small cicatrices on anterior and middle portion of both legs, which, he says, were points of suppuration. There has been, he says, no suppuration for several years, and the examiners give him no rating.

As your committee can find no other evidence on file they do not think that the "sore leg" from which claimant suffered for a time whilst in the Army and for awhile afterwards, but which is now healed, should entitle him to be put on the pension-roll, and they therefore report adversely, and recommend that the bill lie on the table.

O

NGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
ssion. } { No. 557.

# M. S. CLAY.

16, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

BEE, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4103.]

*nittee on Invalid Pensions, to whom was referred the bill (H. R. ranting a pension to M. S. Clay, having examined the same, sub- following report:*

Clay enlisted as private in Company A, Twenty-second Illinois rs, June 26, 1861, and was discharged on medical certificate of r on February 22, 1862. He filed claim for pension on August which was rejected on December 4, 1885, on ground that disa- l not exist in a pensionable degree. In fact, this is the only question that could arise in the case, and this decision is based a certificate of board of medical examiners, which is as fol-

appearance indicates good health, with the nutritive system in healthy con- ght tenderness of the lumbar vertebra, and same tenderness on each side of nore particularly to the right; as objective symptoms are slight we make

oof shows that while in the service and line of duty he received to his back while building breastworks at Camp Lyons, Mo., he contracted lung disease, for which last disability he was ntly discharged. The proof also shows that he has been a sufferer from his said disabilities ever since his discharge, and mittee believe he is now afflicted in a pensionable degree. ecommend the passage of the bill.

O

9TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 558.

# CUDBERT STONE.

EBRUARY 16, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

r. TAULBEE, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 927.]

*e Committee on Invalid Pensions, to whom was referred the bill (H. R. 927) granting a pension to Cudberth Stone, having carefully considered the same, submit the following report:*

Cudbert Stone enlisted as a private in Company H, Fourteenth Kenicky Volunteers, on the 3d day of October, 1861, and was honorably scharged therefrom on the 31st day of January, 1865.

He applied for pension on July 20, 1881, and his claim was rejected the 14th day of October, 1864.

He based his claim on piles, resulting from exposure while in the servs and in the line of duty.

His claim was rejected on the ground that claimant was not in the ie of duty when he contracted said disease. This conclusion seems to deduced from a statement made by the claimant to the effect that was afflicted with diarrhea while he was undergoing sentence of urt-martial.

He shows, however, by his own and the affidavit of other credible witesses that he contracted diarrhea while in the line of duty, and that ie said disease of piles was the result of chronic diarrhea and hard ervice and exposure which he had and underwent while in the line of uty, and that said disease has totally disabled him from performing ianual labor of any kind.

In view of the long and faithful service and the high character of the laimant, and the well-established facts that claimant was a stout and ble-bodied man, free from all and any disease when he enlisted, and iat by reason of his faithful service to his country and the great suffering and hardship through which he passed while in said service his ealth was permanently destroyed, the committee earnestly recommend ie passage of the bill with the title and bill amended as to the orhography of the Christian name of the beneficiary as follows: "To be pelled "Cudbert" instead of "Cudberth," to correspond with the musr-roll of said company.

O

FH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 559.

# JANE W. DEVEREUX.

RUARY 16, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

. LOVERING, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 1100.]

*e Committee on Invalid Pensions, to whom was referred the bill (H. R. 100) granting a pension to Jane W. Devereux, submit the following eport:*

Jane W. Devereux is the mother of George M. Devereux, late private the Tenth Massachusetts Battery.

He enlisted September 1, 1862, and was killed at Reams Station Aust 26, 1864. She filed a claim as dependent mother, which was reted April 29, 1884, on the ground that at date of soldier's death claim- was not dependent upon him for support, "as at that date the husd had a sufficient income for and did furnish the claimant adequate pport."

To controvert this statement she submits evidence of neighbors and ple who knew her husband well. At one time prior to the war he s well off, but lost his property by indorsing notes. He was a proud, h-spirited man, and resorted to all sorts of devices to make it appear was fairly well off, and to conceal his condition from his friends and n his wife, and when he died was $3,000 in debt.

Original letters of soldier are filed with the case as proving he conuted to aid in the support of his mother while in the army, viz: One ed Poolesville, Md., March 16, 1863, says:

day or two ago I sent you $35, per Adams Express, which you will receive in a y or so.

-nother letter says:

u will find inclosed $15. After this you may get the money at the city hall, for I allot $9 a month to be drawn by you at home.

- W. Johnson, employer of son prior to enlistment, in 1860 or 1861, ifies: "From various remarks and conversations with him, am conced the money paid him was given his mother for support."

-. W. Warren, justice of municipal court, Charlestown, Mass., testito knowing claimant and her husband for thirty years; well remem-ed the son George, who was killed in battle, and knew that they re partly dependent upon him for support; knew that the father was barrassed during the war and up to the time of his death, in 1881; at the claimant has not sufficient means for her support.

S. D. Larvin, grocer, Boston, testifies:

Have been acquainted with John N. Devereux, husband of claimant, for last twenty-five years; have had business connections with him, and at many times conversations with him regarding his financial difficulties; have known he must have been insolvent for the last twenty years. It was difficult to collect bills incurred for family expenses. He seemed to have a dread of appearing bankrupt, and so dragged along, subject to writs of attachment and trustee continually; his embarrassments arose from indorsements.

Charles E. Raymond, Cambridge, of firm of Thomas Dana & Co., Boston, wholesale grocers:

I had business with husband of claimant during most of the years of my acquaintance, and for many years previous to his death considered him insolvent and of no pecuniary responsibility. Declared his intention of going into bankruptcy, and I furnished him money for that purpose.

Hugh J. Tolland, Boston, testifies:

Have heard him complain that he could not get money to pay his debts. Am satisfied that during the last years of his life he was continually struggling to pay his debts and provide for his family.

Samuel B. Locke, of Boston, Mass., testifies:

Knew the late John N. Devereux from 1855 to the date of his death, 1881; well acquainted with his financial standing; know that at no time in that period was he able to pay his debts; frequently lent him money to pay his notes. All the property he represented was mortgaged for more than its value, leaving at his demise not one dollar.

A letter of claimant, November 26, 1883, to Hon. H. M. Teller, Secretary of Interior, is filed, in which she says:

My only son gave his young life to his country, and that country amply able to aid me, his mother, why don't they do so? Had they left me my son I should not in my old age be left in this condition—asking aid and receiving none.

Since the death of her husband, in order to exist, she has sold articles of her household furniture—things, as she says, they were a life-time collecting.

In view of all the evidence submitted your committee are of opinion that this mother, who is now sixty-five years of age, poor, with no one to aid in her support, should be put upon the pension-roll the few remaining years of her life, believing that the Government deprived her of her son, killed in battle at the tender age of nineteen years, to whom had he been spared she could have looked for that partial sustenance she now asks from the Government. They therefore recommend the passage of the accompanying bill, with the following amendments: Insert in the title between the word "Jane" and the word "Devereux" the letter "W.;" also in the fourth line of the bill the same amendment, so it shall read "Jane W. Devereux."

O

NGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
ssion. } { No. 560.

# MARY ANN MURPHY.

16, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

ERING, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4538.]

Ann Murphy is the widow of John Murphy (second), landsman nited States Navy, U. S. S. Rhode Island, who died in service Naval Hospital, Philadelphia, October 23, 1863, of "ascites." ed November 20, 1862. She made application for a pension r 14, 1863, which was rejected December 8, 1871, because 's fatal illness did not originate in line of duty, claimed to be ed by affidavit of Dr. Webber, U. S. Navy, under date of Oc- 868, as follows:

n Murphy (second) was on board the Rhode Island at the time I was sur- at vessel. He had an attack of ascites, for which he was sent to the hos- t before the above-mentioned attack he went ashore on liberty. I was self or his mates, I forget which, that he became intoxicated and slept all e open air, exposed to rain. In a very short time, from one to four days, s commenced. It is possible that the hot climate and his labors in the fire- s told he did fireman's duty, but have no recollection of that) predisposed attack and rendered it more surely fatal.

inst this vague remembrance and hearsay evidence as to drunk- sailor, which seems to have been the point of disallowance by ion Office, appears the evidence of Lemuel Pope, acting master's d several comrades, as follows:

'ope testifies—

number of the firemen and coal-heavers were used up by the excessive heat ork in the fire-room. That Murphy, when he came off sick-list, did duty on mbers the affair at Saint Thomas in August, 1863; don't think Murphy was nk or overstaid his liberty, for I had charge of the launch that brought rty men. Remember distinctly who were drunk and who overstaid their ving had to go and hunt them up. Know that Murphy was not drukk aid his liberty.

n Sutherland, seaman, John Fitzgerald, fireman, Peter J. landsman, corroborate the statement of Mate Pope, that Mur- not drunk at the time of liberty at Saint Thomas; that some crew did get intoxicated, but that Murphy did not. Fitzgerald, associated with him in the fire-room, says he knows he was ing from sickness for some time before they went ashore at omas, from the effects of the heat and hard work; if he had xicated or had laid out all night, he would have known it, be- mpanion in the fire-room.

John Howard certifies:

We had no rain or storm when we had liberty at Saint Thomas; the weather was pleasant.

William Sutherland testifies:

Remember Murphy's going ashore, saw him when he returned on board; he had a paper bag in his arms; he was sober, free from intoxication, and I did not hear he was drunk, and do not believe he was; only two men came on board intoxicated. The men were not allowed to sleep in the streets; the soldiers would have taken them to barracks. I was captain of the fore-top; previous to this liberty, to my knowledge, said Murphy was in the fire-room; was taken sick; he went on sick-list, and was not well after this time. Most of the men were sick on that cruise. There were two John Murphys on board then. I remember this one, John Murphy, second; I took him in a boat; was one of the hands that carried him on board the Ticonderoga; he was then sick; this was three or four weeks after liberty at Saint Thomas.

As against the hearsay evidence of Surgeon Webber, we have this positive evidence of the attesting witnesses, sufficient to establish the fact, that John Murphy was not drunk when on liberty at Saint Thomas, in any court in the United States.

Your committee believe an injustice has been done this claimant in the rejection of the claim, and they therefore recommend passage of the accompanying bill as amended.

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I CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 561.

# WALTER S. HAYNES.

ARY 16, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

OVERING, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 1113.]

alter S. Haynes enlisted August 6, 1862, in Company F, Thirty-n Regiment Massachusetts Volunteers, and was discharged for dis-ity September 28, 1863. He applied for a pension, which was granted e 16, 1864; certificate No. 29637. He alleged in his original appli-on:

at on or about July 12, 1863, he was attacked by malarial fever, followed by and fever. Soon after an abscess appeared upon his right hip and another upon ght groin, producing great swelling of the abdomen and lower limbs.

e was first pensioned at $8 per month, which was afterward reduced , and then to $4 per month, at which rate he was last paid March 70, at which time he was dropped from the roll, as the result of an ination during which he admitted to the examining surgeon that d "slight swelling of the ankles before enlisting." He filed a claim estoration February 12, 1881, for malarial poisoning and rheuma-, which was finally rejected September 16, 1885—cause: "No disa-y from malarial poisoning since filing of claim"—prior to which the ers were returned to the chief of the board of review with the fol-ng indorsement from the chief of the Eastern division:

m of opinion that the grounds of rejection on this claim for restoration are not ble. Aside from the alleged admission of claimant theproof of soundness is all cient.

he evidence in support of this claim is certainly of the strongest racter as to the incurrence of the disabilities, and the rejection of claim seems to have been based almost wholly upon the honest ad-sion of claimant as to slight swelling of ankles before service, which ot an uncommon occurrence in the case of people whose business, ilar to claimant's (grocery), required constant standing for long rs.

ohn Burns, M. D., family physician from 1859 to 1862, testifies to mant's soundness prior to enlistment, and that if he was not sound hould have known it. No recollection of ever having treated him ny cause.

illiam F. Draper, captain of claimant's company, testifies:

at when encamped at Newport News, Va., claimant contracted rheumatism, on nt of which he was excused from duty, and was under treatment in hospital for ; *never able to perform regular duty* until he was discharged.

George P. Sanderson, of claimant's company, who was detached as a hospital attendant, testifies that—

While regiment was at Newport News, Va., after a heavy snow-storm, which broke down many of the tents, claimant was admitted to the hospital suffering from rheumatism, the case being one of the worst that came under my notice.

J. P. Prince, late surgeon of the Thirty-sixth Massachusetts Volunteers, testifies that—

Soldier was under my treatment for rheumatism during the early part of 1863, for a number of months, exceeding eight, and while an enlisted man, and to the best of my knowledge and belief this disease was contracted in the line of duty; he was constantly excused from duty by me or one of my assistants.

Dr. A. F. Bryant, late surgeon of Thirty-sixth, certifies that—

Soldier, while in service and line of duty, suffered from rheumatism, disabling him for active duty for a period of ninety days, and more or less till time of his discharge; have seen him since and find him suffering from same disease.

The certificate of disability for his discharge says: "Prostration following and consequent upon malarial disease and difficult locomotion."

J. F. Jarvis, M. D., certifies from 1864 to 1872:

Saw him every day or so, being near neighbors; knew he was suffering from articular rheumatism, and conversed with him frequently in regard to his condition; in August, 1878, attended him professionally for an attack of subacute rheumatism, chiefly affecting hands and lower extremities; that these are distorted by the disease to such an extent as to incapacitate him from earning a living, and he always will be, in my opinion; the disease was contracted in the Army.

E. N. Whitten, M. D., says:

In 1870 treated claimant for articular rheumatism, chiefly affecting lower extremities, from which he continued to suffer, and is now [1881] suffering; my opinion is that the disability is permanent.

C. B. Witherle, M. D., surgical house officer, Massachusetts General Hospital, certifies:

Claimant had the middle toe of his left foot amputated at this hospital for a troublesome deformity, apparently the result of rheumatic inflammation in the joint.

The reports of pension examining surgeons are herewith appended: John G. Metcalf, M. D., Mendon, Mass., says, September 4, 1869:

Right knee swollen and painful, being attacked by rheumatism; find him with articular rheumatism of the different joints of both upper and lower extremities, at times interfering with his ability to labor; in my opinion present rheumatism had its origin in original disabilities.

Dr. Ormand Martin, 1870, testifies:

He has no disability from intermittent fever, and none from abscesses of hip joint; he is badly disabled from rheumatism; he has bad swelling of right ankle and knee; that he says he has been very lame since his discharge; he now has large deformed joints of right hand, and is feeble looking, and I have no doubt he is very lame in right leg and shoulder; he admits he had slight swelling of his ankles before entering the Army; his disability is total.

The pension examining board at Boston, Mass., February 9, 1881, say:

We find him a very great sufferer from chronic rheumatism. Left foot is badly drawn, and he has recently had a toe amputated on account of the pain the pressure of the toes together occasioned; his feet and ankles are badly swollen, though he says they are much better than at times; his heart sounds are weak and distant, and though we get no murmurs we incline to believe he has hypertrophy of left ventricle. We rate third grade, $18 per month.

The board at Lowell, Mass., January 23, 1884, appear to have spent their time in questioning the soldier as to how he contracted his dis-

ability and what he complains of now, and wind up what your committee, from its very great experience in examining this class of papers, do not hesitate to say a very superficial examination, if indeed any proper examination was ever made, as follows:

We find no enlargement or deformity of any joint except of the two great toes, which claimant says is hereditary. Heart normal. We rate for rheumatism and results, nothing. The claimant does not suffer from the disability for which he was originally pensioned, nor from rheumatism, and is not entitled to restoration or renewal or any rating.

The board of surgeons at Salem, Mass., under date of June 18, 1885, find him, after a long and most thorough examination, disabled from causes alleged, and recommend that he be restored to the roll, aggregating his disabilities at third grade, $18 per month.

The reviewer of all this evidence sums up his report as follows:

It is evident that original description of disability did not cover the real cause of the disability, the abscesses which appear to have resulted from rheumatism, and that the pension was paid for rheumatism as appears from the certificates of examination therefor. I think certificate should be reissued to correct description of disability, and to restore from date of last payment at $4 per month, and increased to $8, from August, 1870, and $18 from February 9, 1881, for rheumatism and results.

Your committee are of opinion that all the evidence in the case tends strongly to prove incurrence of disability in the service. That he was a hearty, robust man when he enlisted, is clearly proven from his family physician testifying that he never treated him for any cause. The evidence in service shows conclusively in his favor as contracting disability, and all the evidence since service shows he has been a constant sufferer therefrom. We therefore recommend the passage of the accompanying bill as amended. Strike out the words "on the pension-roll," in the sixth line of the bill; strike out, also, the word "place" in the fourth line, and substitute therefor the words, "restore to the pension-roll."

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TH CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
1st Session. } { No. 562.

# NFERRING JURISDICTION UPON THE COURT OF CLAIMS O INVESTIGATE PRIVATE AND DOMESTIC CLAIMS AND EMANDS, OTHER THAN WAR CLAIMS, AGAINST THE NITED STATES.

EBRUARY 16, 1886.—Referred to the House Calendar and ordered to be printed.

. WILLIAM WARNER, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill H. R. 5314.]

*e Committee on Claims, to which was referred House bill 5314, having fully considered the same, submit the following report:*

The committee, in the discharge of its duties in the investigation of large number of private and domestic claims and demands, other n war claims, against the United States, from the difficulty attending n a partial examination of the great mass of these claims, is deeply pressed with the urgent necessity of immediate legislation, referring m to some judicial tribunal where the facts upon which they are ed may be thoroughly investigated.

The action of Congress in passing upon these claims is most unsatistory; its conclusion is, in almost every case, based on ex parte evice furnished by the claimant. There are now pending before your mittee nearly 1,000 bills and petitions. It is estimated that the num- will reach 1,800 before the close of this Congress. Many of these ims are only for small amounts, while others involve hundreds of usands of dollars. Nearly all of them require the investigation of puted facts, a task for which judicial tribunals are especially adapted, ask from which Congress, in the interest of justice and general legtion, should be relieved. The history of past legislation shows that y a fraction over one per cent. of these bills, introduced for the relief citizens for private and domestic claims against the Government, other n war claims, ever pass Congress. It is a practical denial of justice the citizens having an honest claim against the United States.

In the Forty-eighth Congress 913 bills and petitions were referred to e Committee on Claims. That committee, composed of honest and le men, was only able to report to the House 163—that is, about one-th of the bills referred to the committee—only 12 of which passed ngress and became laws. One claimant out of every 76 had his dend against the Government finally acted upon. It will not do to say t the 901 claims that failed to receive Congressional approval were honest ones, or that they were less deserving of favorable consideron than the 12. It is safe to say that nearly all of these claims that ed of allowance in the last Congress have found their way into this, l, with others, have been referred to your committee, presumably for

favorably considered in one Congress by one house, and in
Congress by the other house, without ever reaching the point o
determination by receiving the concurrent action of both House
Congress; while others which have been rejected are again an
presented to Congress after Congress to take their chances in
islative lottery.

The committee is of the opinion that every private and d
claim against the Government, in which the facts are not co
should be referred to a judicial tribunal for an ascertainment
facts under the rules governing the introduction of evidence i
of justice. This will protect the claimant who has an honest cl
prevent the allowance of claims having no merit upon *ex parte* e
It will be conceded that Congress has neither the time nor the
tion to properly investigate and make a finding of fact in each
private and domestic claims; its province and duty is to provi
dicial tribunal for their ascertainment. This justice alike the
ment and the citizen demands.

The Committee on Reform in the Civil Service of the Forty-fi
gress used the following language in its report, viz:

From the nature of things, no tribunal can be less fitted to examine and de
private claims than the Congress. The organization of the body requires tha
sideration of such claims must be first had in committee. The pressure of t
now so great that the claims before the committees are generally allotted f
nation to subcommittees of one, or two, or three members. Claimants,
naturally begin by seeking first a favorable committee to which to refer the
and next for a favorable selection from that committee to consider them.
is then offered in the form of statements of *ex parte* affidavits. There is n
usually no personal appearance of witnesses, no cross-examination, no oppo
mony, no inquiry by nor appearance on the part of the Government, no ge
licity, no check against fraud, and no prescribed rules and regulations for th
gation. Many of the claims are impressed with a sectional or party character
calculated to exclude all judicial fairness in their consideration. Every pe
has been charged by a committee with the examination of a private claim
felt how unsatisfactory as a means to justice, even after a most conscientious
tion, his consideration of it had been.

The claim thus considered is reported to the committee, and by the commi
House. How little time or opportunity the House has for considering tho
and how liable they are to be determined blindly or partially, we all kno

discretion of Congress, amount in a session of Congress to about 2,500, or about five for each day Congress is in session. The gross injustice this necessarily occasions to meritorious claimants, and the inducement it offers for the presentation and pressure of groundless and unworthy claims, is obvious.

The evils as well as folly of attempting, or rather *pretending*, to adjudicate private and domestic claims by Congressional investigation is much more apparent now than in the Forty-fifth Congress. Congress should relieve itself from this judicial work, which it is ever making the pretense of doing, but never completes. It should not delay in referring these claims for judicial investigation, as to the facts, to some court where the claimant may obtain that hearing and consideration of his demand against the Government to which every citizen is entitled. There were 6,329 private bills introduced in the House during the Forty-eighth Congress. Of this number 682 became laws, of which 588 were pension bills. During that Congress there were but 1,861 bills of a general character introduced. Up to this date (February 13, 1886) there have been introduced in the House 5,554 bills, of which number 3,777 are of a private nature. The cost of printing the bills and resolutions of Congress for twenty years ending June 30, 1881, was $459,740.11. The cost for the five years ending June 30, 1886, will be as follows:

| | |
|---|---|
| Year ending June 30, 1882 | $61,882 74 |
| Year ending June 30, 1883 | 23,556 08 |
| Year ending June 30, 1884 | 74,720 26 |
| Year ending June 30, 1885 | 21,616 33 |
| Year ending June 30, 1886 (estimated) | 100,000 00 |

Making the total cost of printing bills and resolutions of Congress for twenty-five years, $741,515.52. It is estimated by the Public Printer that bills of a private nature comprise two-thirds of the whole number printed. The proportion of private bills introduced into the House at this session to date (February 13, 1886) is slightly greater than the estimate given.

If the cost of printing bills of a private nature bears the same proportion to the whole cost as their number bears to the whole number, the Government on June 30 of this year will have paid $494,343.68 in twenty-five years for printing bills of a private nature. The cost of printing the bills and resolutions referred to the Committee on Claims in the Forty-eighth Congress was, in round numbers, $8,000, or $666 for every one of the twelve private bills that became laws. Aside from the expenses for printing these private bills, it has been stated "that, if the time spent by Congress at every session in the consideration of private and domestic claims was reduced to dollars and cents, it would be found that those expenses are equal to the claims allowed, and probably to the sum claimed in those rejected." Yet, this condition of things is permitted to go on from Congress to Congress. Bills for the relief of the same party or his heirs are introduced every two years.

The claimant comes and goes and dies, leaving his claim against the United States as a legacy to his children; for, if the claimant does not belong to the favored few, an ordinary lifetime is far to short to get a claim, however just, through Congress. If it is the policy of Congress to have the facts in each claim before it before passing upon the claim, in order that the citizen, in a reasonable time, may be paid that to which he is honestly entitled, and to insure the rejection of claims without merit, then Congress should, in the opinion of your committee, pass this bill. But if it is the purpose to continue these private claims from generation to generation, obstructing general legislation, then there should be no change; for the mind of man would be at a loss to

suggest any other mode of procedure for passing upon private claims against the Government under the practical workings of which so little can be accomplished at so great an expense as the present system.

It is fair to assume that Congress is not afraid to trust the judiciary to ascertain the facts and to declare the conclusions of law as to such facts in any controversy, whether it be one between citizens or between a citizen and the United States. It is to be regretted that this Republic of ours should refuse to open its courts to any of its citizens having just demands against the Government. The evils, delays, and injustice of examining and passing upon private claims resulted in the establishment of the Court of Claims to repress a mischief and to advance a remedy. Yet many private and domestic claims cannot be prosecuted in that court, they being barred by the statute of limitations. A just claim of the citizen against the Government should not be discharged by time; it should be paid regardless of its age. The claimant should be given the privilege of going into such court as the Congress shall designate, at least to establish fully the facts upon which he bases the claim or demand.

The other great nations go much further than is asked by this bill. In the Brown case (Sixth Court of Claims Report, 192), Nott, justice, in delivering the opinion of the court, uses this language:

> That the legal redress given to a citizen of the United States against the United States is less than he can have against almost any Government in Christendom. The laws of other nations have been produced and proved in this court, and the mortifying fact is judicially established that the Government of the United States holds itself of nearly all Governments the least amenable to the laws. * * * Of all the Governments of Europe, it is believed that Russia alone does not hold the state amenable in matters of property to the law. Of all the countries whose laws have been examined in this court, Spain only resembles the United States in fettering the judicial proceedings of her courts by restricting and leaving the execution of their decrees dependent upon the legislative will. * * * First in the high civilization that protects the individual and assures his rights stands the great Empire of the German States.

In England, notwithstanding the principle underlying the English constitution that the King can do no wrong, the citizen who has a claim against the Government is furnished with a mode of obtaining redress. Mr. Justice Davis, in the O'Keefe case (11 Wall., 183), says:

> The law allows him (the citizen) by petition to inform the King of the nature of his grievance, and as the law presumes that to know of an injury and to redress it are inseparable in the royal breast, it then issues, as of course, in the King's own name, his orders to his judges to do justice to the party aggrieved.
>
> This valuable privilege, secured to the subject in the time of Edward I, is now crystallized in the common law of England. As the prayer of the petition is grantable *ex debito justitiæ*, it is called a petition of right, and is a judicial proceeding to be tried like suits between subject and subject. It does not exist by virtue of any statute, nor does the recent legislation in England concerning it do more than to regulate the manner of its exercise, and to confer on the petitioner the privilege, not before granted, of instituting his proceeding in any one of the superior courts of common law or equity in Westminster.

This question received consideration of the Committee on Claims in the Thirtieth Congress. Hon. John A. Rockwell, a distinguished member of that committee, in an elaborate report, uses this language:

> The chairman of the committee has obtained from the ministers of several of the leading Governments of Europe statements as to the course pursued in claims against the Governments of Russia, Austria, and the smaller German States, and in Holland and in other nations. In relation to all mere matters of contract and ordinary trespasses, the Government is heard in the ordinary tribunals of the country, which are governed precisely by the same rules of law in these cases as between individuals. These Governments, although far behind us in civil freedom and constitutional liberty, never shirk from the full and fair investigation of these claims, and always

mit to an adverse decision by the courts. It has been left to our own Government ;eny to the citizen who has a demand against it the power to try the question be- ı its own courts, and yet has furnished no adequate tribunal for the purpose. (Re- t No. 498, vol. 3, R. of Com. 1st sess. 48th Cong.)

The accumulation of private claims has been so great within the last enty-five years as to burden several of the committees of Congress l to retard action upon a great proportion of the claims referred, the same time compelling members, elected to participate in the ımination and discussion of national subjects, to devote their time to ı investigation of these private claims. The committee is confronted th the fact that, work as it may in the ascertainment of the facts on which the claimants seek redress, it is beyond its power to give ything like a satisfactory examination to but a very small portion the claims before it. It is also aware of the further fact that but a r of the cases reported will ever receive the consideration of Con- ess. The liquidation of private claims by Congress, time has demon- ated to be expensive as well as dilatory. It should be the wish of ry honest claimant, as well as that of the Government, to have the ts in every claim ascertained by a court, after a thorough exami- ion of the witnesses for and against the claims. When the facts are found, then, and not till then, can Congress satisfactorily or expe- iously pass on the private and domestic claims now pending before s committee.

Although the committee cannot suppose that the accompanying bill he best possible substitute for the present very objectionable system passing upon claims referred to it, yet it believes that this bill will fur- h a remedy for many of the evils complained of; it is, at least, a step in right direction. The bill may be obnoxious to the objection that it s not go far enough in affording a remedy to claimants. However e that may be, certain it is that, under its provisions, the facts will ascertained under due forms of law, so as to protect the interests of concerned; that if it becomes a law, and its provisions are strictly ered to by Congress, it will afford relief now practically denied to se having claims against the Government, and will give members e time to attend to general legislation.

he committee recommend the following amendment to the bill:

ı the ninth line of the first section strike out the word "finally."

.nd, when so amended, the committee recommend the passage of the



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TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 563.

# SILAS QUACKENBUSH.

BRUARY 16, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

. KLEINER, from the Committee on War Claims, submitted the following

## REPORT:

[To accompany bill H. R. 528.]

*e Committee on War Claims, to whom was referred the bill (H. R. 528) for the relief of Silas Quackenbush, having considered the same and accompanying papers, submit the following report:*

The committee find the facts to be as stated in House report No. 2116, rty-eighth Congress, first session, which report is hereto annexed l made a part of this report, and is as follows:

he claimant was, about the middle of November, 1864, at the town of Tipton, in then Eleventh Congressional district of Indiana, drafted into the military service he United States, pursuant to the act of Congress, approved March 3, 1863, "for lling and calling out the national forces." Immediately upon being so drafted procured one Lewis Jones to go as his substitute, and paid said Lewis for going the military service of the Government as such substitute for said claimant, Silas ckenbush, the sum of $850. It appears clearly from the evidence that said Lewis es was duly accepted by the Government authorities as such substitute, was tered into the naval service of the United States as such substitute, and so ed until the close of the war. But notwithstanding these facts the said claim- after he had furnished said substitute, was compelled, under the same draft, inst his will and over his protest, to enter the military service of the United States serve until the 23d day of February, 1865, at which time he was honorably dis- rged. The evidence clearly shows that the claimant was compelled to perform this vice for the Government without any fault or negligence on his part, but solely ough the mistake or fraud of the agents of the Government, and that he has never n repaid from any source any part of the said sum of $850, which he was compelled expend in order to procure said substitute.

Your committee have no hesitation, under the facts, in recommending that said imant be allowed and paid the said sum of $850, and they accordingly report in or of the passage of the bill.

Your committee therefore adopt said House report as the report of is committee, and report the accompanying bill (H. R. 528) for his lief with recommendation that it pass.

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TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 564.

# WILLIAM PIKE.

EBRUARY 16, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

r. KLEINER, from the Committee on War Claims, submitted the following

## REPORT:

[To accompany bill H. R. 527.]

*he Committee on War Claims, to whom was referred the bill (H. R. 527) for the relief of William Pike, having considered the same and accompanying papers, submit the following report:*

The committee find the facts to be as stated in House Report No. 2115, orty-eighth Congress, first session, which report is hereto annexed and ade a part of this report, and is as follows:

The claimant was, about the middle of November, 1864, at the county of Tipton, in e then Eleventh Congressional district of Indiana, drafted into the military service the United States, pursuant to the act of Congress approved March 3, 1863, for enrolling and calling out the national forces." Immediately upon being so drafted procured one Thomas O. Bosworth to go as his substitute, and paid said Bosworth r going into the military service of the Government, as such substitute for said aimant, the sum of $850. It appears clearly from the evidence that said Thomas Bosworth was duly accepted by the Government authorities as such substitute, as mustered into the naval service of the United States as such substitute, and so rved until the close of the war. But, notwithstanding these facts the said claimt, after he had furnished said substitute, was compelled, under the same draft, gainst his will and over his protest, to enter the military service of the United States d serve until the 3d day of April, 1865, at which time he was honorably discharged. he evidence clearly shows that the claimant was compelled to perform this service r the Government without any fault or negligence on his part, but solely through e mistake or fraud of the agents of the Government, and that he has never been paid, from any source, any part of the said sum of $850, which he was compelled to pend in order to procure said substitute.

Your committee have no hesitation, under the facts, in recommending that said aimant be allowed and paid the said sum of $850. They accordingly report in favor the passage of the bill.

Your committee therefore adopt said House report as the report of is committee, and report the accompanying bill (H. R. 527) for his relf, with recommendation that it pass.

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9TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 565.

# EORGE W. BALDWIN, CHARLES L. BALDWIN, AND DORA THOMPSON.

EBRUARY 16, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

r. KLEINER, from the Committee on War Claims, submitted the following

## REPORT:

[To accompany bill H. R. 529.]

*he Committee on War Claims, to whom was referred the bill (H. R. 529) for the relief of George W. Baldwin, Charles L. Baldwin, and Dora Thompson, having considered the same and accompanying papers, submit the following report:*

The committee find the facts to be as stated in House Report No. 2117, orty-eighth Congress, first session, which report is hereto annexed and ade a part of this report, and is as follows:

The claimants are, respectively, in the order in which their names appear in the ll, the father, brother, and sister of William F. Baldwin, deceased, and they are all full age. The said decedent, William F. Baldwin, was, about the middle of Nomber, 1864, at the county of Tipton, in the State of Indiana, in the then Eleventh ongressional district of said State, drafted into the military service of the United ates, pursuant to the act of Congress approved March 3, 1863, "for enrolling and lling out the national forces." Immediately upon being so drafted, he procured e Timothy O. Reagan to go as his substitute, and paid said Reagan for going into the ilitary service of the Government, as such substitute for said decedent, the sum of 50. It appears clearly from the evidence that said Timothy O. Reagan was duly cepted by the Government authorities as such substitute, that he was mustered into e naval service as such substitute, and so served until the close of the war. But, twithstanding these facts, the said decedent, after he had furnished said substitute, as compelled, under the same draft, against his will, and over his protest, to enter e military service of the United States (being assigned to the Twenty-third Regiment Indiana Volunteers), and served until the 16th day of February, 1865, at which me, and when still in the service, he died. The evidence clearly shows that the cedent was compelled to perform this service for the Government without any fault negligence on his part, but solely through the mistake or fraud of the agents of the vernment, and that neither he nor the claimants, or any of them, who are his sole irs at law, have ever been paid by any one, or from any source, any part of the id sum of $850 which decedent was compelled to expend in order to procure said subtute.

Your committee have no hesitation, under the facts, in recommending that said imants, as such heirs at law of said decedent, be allowed and paid the said sum of 50. They accordingly report in favor of the passage of the bill.

Your committee therefore adopt said House report as the report of is committee, and report the accompanying bill (H. R. 529) for their lief with recommendation that it pass.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 566.

# RICHARD MIDDLETON.

FEBRUARY 16, 1886.—Laid on the table and ordered to be printed.

Mr. KLEINER, from the Committee on War Claims, submitted the following

## REPORT:

[To accompany bill H. R. 4497.]

*The Committee on War Claims, to whom was referred the bill (H. R. 4497) for the relief of Richard Middleton, having considered the same and accompanying papers, submit the following report:*

Your committee, after a careful examination of the case, find the facts to be as stated in letter of Adjutant-General E. D. Townsend to the honorable Secretary of War, dated May 17, 1878, and which letter is hereto appended and made a part of this report, and is as follows:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
*Washington, May* 17, 1878.

SIR: I have the honor to transmit herewith the letter of Hon. B. F. Marsh, M. C., of Committee on Military Affairs, House of Representatives, in which he requests the military record of Richard Middleton, late captain of sappers and miners (attached to the Third Maryland Volunteers), with the following report:

A company of sappers and miners, consisting of 93 enlisted men, appears to have been recruited by and under authority of Richard Middleton, in Massachusetts and Maryland, between October 19, 1861, and January 16, 1862, although the act of July 22, 1861, authorized the recruitment of artillery, cavalry, and infantry only.

It would further appear that on January 3, 1862, 90 of the men assembled at Baltimore, Md., and it has been claimed that, on that date, the company was mustered into the service of the United States, with a captain and a first and second lieutenant, but there is no muster-in roll of the force on file in the Department to support that claim, although the muster-out roll shows a muster-in by Lieutenant Weeks, on January 3, 1862, at Baltimore.

The attention of the Department having been called to the illegal recruitment of the company, it was ascertained that the men had been enlisted upon the misrepresentations of their officers, and that they had declined to serve as infantry.

Under this state of facts, authority was granted, February 7, 1862, for the muster-out of the enlisted men. Under these instructions the company (3 officers and 86 men) was mustered out at Washington, D. C., on February 17, 1862, and from notations on the muster-out roll filed in the Second Auditor's office, it appears that the officers and men were paid from January 1, 1862, to February 17, 1862, inclusive.

There is no muster-in roll of Mr. Middleton on file, nor is there any evidence of the services rendered by him, except that noted on the muster-out roll of the company; in that roll the notation after his name recites that he joined for service, December 3, 1861, and that he was mustered in at Baltimore on January 3, 1862. He was mustered out February 17, 1862, and paid from January 1, 1862, to date of muster-out.

I have the honor to be, sir, very respectfully, your obedient servant,

E. D. TOWNSEND,
*Adjutant-General.*

The Hon. SECRETARY OF WAR.

Your committee therefore report back the accompanying bill (H. R. 4497) and recommend that it do lie upon the table.

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
ession. } { No. 567.

# ORDNANCE AND WAR SHIPS.

r 16, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

ILKSDALE, from the Committee on Printing, submitted the following

## REPORT:

ommittee on Printing, to whom was referred the following Sen- urrent resolution, have had the same under consideration, and favorable report thereon, and recommend its passage. The es- cost for the 11,100 copies is $4,449.93.

*by the Senate (the House of Representatives concurring)*, That 11,100 ad- opies of the report of the Select Committee on Ordnance and War Ships ; 100 copies for the use of the committee, to be distributed to those who d to the appendix to said report; 1,000 copies, each, for the War and Navy nts; 3,000 copies for the use of the Senate, and 6,000 copies for the use of of Representatives.

C

NGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
ssion. } { No. 568.

# POSTAL LAWS AND REGULATIONS.

16, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

ISDALE, from the Committee on Printing, submitted the following

## REPORT:

[To accompany bill H. R. 4420.]

*nittee on Printing, to whom was referred the bill (H. R. 4420) to ze the publication of a new edition of the Postal Laws and Regula- aving considered the same, submit the following report:*

ie last edition of the Postal Laws and Regulations was issued nd is now entirely exhausted, it being not only difficult, but possible, to procure a copy thereof for the wants of the public Since 1879 various changes in the Postal Laws and Regulations n made. In view of these facts a new edition of the same is t need. The estimated cost of 75,000 copies of the same, on k paper, would amount to $17,475. No less number would be to the present requirements of the public service.

mmittee therefore respectfully report the accompanying bill following amendments: Insert in line 4 the words "consisting y-five thousand copies;" insert in line 5 the words "seventeen four hundred and seventy-five dollars," and in line 12 insert s "with ten per cent. added," and as so amended recommend ge thereof.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 569.

# OFFICIAL REGISTER OF THE UNITED STATES.

FEBRUARY 16, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. J. W. REID, from the Committee on Printing, submitted the following

## REPORT:

[To accompany H. Res. 89.]

*The Committee on Printing, to whom was referred House Resolution* 89, *providing for the distribution of the Official Register of the United States, respectfully report:*

The purpose of the resolution is to prevent supplying depositories of public documents with duplicate copies of the Official Register. No expenditure of money is involved.

Your committee recommend the adoption of the resolution.

C

GRESS, } HOUSE OF REPRESENTATIVES. { REPORT
sion. } { No. 570.

# PORT OF NAVAL CONSTRUCTOR HICHBORN.

16, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

UHAR, from the Committee on Printing, submitted the following

## REPORT:

[To accompany H. Res. 58.]

mmittee on Printing, to whom was referred House resolution ing for the printing of the report of Naval Constructor Philip , U. S. N., on European dock-yards, &c., having duly consid- ame, respectfully report the same back to the House with the amendments, and recommend its passage:

ke out the words "for distribution by the Navy Department, d insert in their place the words "in addition to the 'usual four."

ines 8 and 9 strike out the words "and that they," and insert "of which additional number 1,000 copies shall be for the use use, 500 copies for the use of the Senate, and 2,500 copies,"— olution as amended then to read:

*ved by the Senate and House of Representatives of the United States a in Congress assembled*, That there be printed and bound in the Government Printing Office, in addition to the "usual 4,000 copies of the report of Naval Constructor Philip Hich- S. N., on European dock-yards, details, fitting and equipment vessels, torpedo boats, ship-yard appliances, tools, &c., of ditional number 1,000 copies shall be for the use of the House, s for the use of the Senate, and 2,500 copies be delivered to ibuted by the Secretary of the Navy for general information."

imated cost of printing and binding the 4,000 copies is $5,004.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 571.

# TERMS OF COURT IN COLORADO.

FEBRUARY 17, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. CASWELL, from the Committee on the Judiciary, submitted the following

## REPORT:

[To accompany bill H. R. 3014.]

*The Committee on the Judiciary, to whom was referred House bill* 3014, *beg leave to submit the following report:*

The bill provides for changing the time of holding the fall term of the circuit and district courts from the first Tuesday in October to the first Tuesday in November of each year.

This change is requested by the presiding judge as well as a large number of the bar practicing in the court, and is doubtless for the convenience of the public.

We therefore report the bill back and recommend its passage.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 572.

# BENEFIT OF STATES AND TERRITORIES.

FEBRUARY 17, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. CULBERSON, from the Committee on the Judiciary, submitted the following

## REPORT:

[To accompany bill S. 71.]

The Committee on the Judiciary have considered Senate bill No. 71 and report the same to the House with the recommendation that it pass with the amendments proposed by the committee, which are herewith submitted.

*Amendments proposed to Senate bill No. 71.*

(1) Strike out the words "and copies of all documents and papers relating thereto" where they occur in the bill.

(2) Strike out the following words where they occur in the bill: "and all other competent secondary evidence."

(3) Add as a second section to the bill the following words: "The Secretary of War is hereby authorized to detail three Army officers to assist him in examining and reporting upon the claims of the States and Territory named in the acts of June 27, 1882, chapter 241 of the laws of the Forty-seventh Congress, and such officers, before entering upon said duties, shall take and subscribe an oath that they will carefully examine said claims, and that they will, to the best of their ability, make a just and impartial statement thereof as required by said act."

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
ession. } { No. 573.

# JULIA D. GRANT.

RY 17, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

MES H. JONES, from the Committee on the Post-Office and Post-Roads, submitted the following

## REPORT:

[To accompany bill H. R. 2033.]

Committee on the Post-Office and Post-Roads, to which was re- the bill (H. R. 2033) granting a franking privilege to Julia D. having had the same under consideration, find that the franking ge has been granted to the widows of Presidents Tyler, Polk, arfield.

r committee therefore recommend the passage of this bill.

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 574.

# ILLINOIS AND MISSISSIPPI RIVER CANAL.

BRUARY 17, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

. MURPHY, from the Committee on Railways and Canals, submitted the following

## REPORT:

[To accompany bill H. R. 5869.]

*e Committee on Railways and Canals, to whom was referred the bill (H. R. 3022) to provide for the acceptance by the United States of the proposed grant of the Illinois and Michigan Canal, and all its appurtenances, and for the construction of the Illinois and Mississippi River Canal, beg leave to submit the following report:*

The Illinois and Michigan Canal extends from Chicago and the aters of Lake Michigan southwesterly to the city of La Salle, a disnce of 96 miles, and there connects with the Illinois River Improvent. This canal was built by the State of Illinois, aided by grant of nds from the United States, and has been in successful operation since s completion in 1847. It is 60 feet wide at water-line, with a water epth of 6 feet. The total cost of the work was $6,557,681.50. It has een the practice of the State to operate the canal on the policy of low lls, and yet its net receipts over operating expenses amounts to ,993,691.74.

By an act of the legislature of Illinois, approved April 28, 1882, "the linois and Michigan Canal, its right of way and all its appurtenances, d all rights, titles, and interest which the State has in any real estate ded to the State by the United States for canal purposes," was ceded the United States upon the express condition that the grant should accepted within five years, and that thereafter the said canal should maintained as a national water-way for commercial purposes, to be ed by all persons without discrimination, under such rules and regulans as Congress may prescribe. This act was ratified by a large maity of the voters of the State, at the election of November 7, 1882.

The proposed canal from Hennepin, on the Illinois River, to the Missippi, is designated as the Illinois and Mississippi River Canal, and known as the "Hennepin Canal." It has been surveyed by authority the Forty-seventh Congress, under the direction of the Secretary of ar, and the United States engineers report "a perfectly feasible route" a canal 80 feet wide at the water-line, with 7 feet of water. When mpleted direct water communication will be secured between the Great kes and the water-ways of the East to the Mississippi River on the st and the Gulf of Mexico on the south. The length of the line from nnepin to the Mississippi at the mouth of Rock River, is 74.5 miles. feeder 37.1 miles in length is to be built extending to Dixon, on Rock

River, and called the Rock Island route. Major Benyaurd, in his report, says of the dimensions of canal and locks—

It is proposed to make the canal and feeder 80 feet wide on the water surface, and 7 feet deep, with slopes of 1 on 1½. The locks for the main canal are 170 feet long and 30 feet wide. These latter dimensions were adopted after considering the question of low-water navigation on the Upper Mississippi, as affecting barge transportation. The hull measurement of the larger size barges adapted to the passage of the locks, is, according to the custom-house authorities, about 300 tons, though with deeper water afforded by higher stages of the river, and also by the proposed dimensions of the canal, such barges can, with the box-top, carry over 600 tons; but we had to be governed by the minimum draught of the boats at the most unfavorable stage of the main river.

The same lock dimensions for the Hennepin Canal were also adopted by Colonel Macomb in the report of 1874, in connection with the subject of transportation routes to the sea-board.

The estimated cost of constructing this canal and feeder, including right of way, is $6,672,890.67; the estimated cost of enlarging the Illinois and Michigan Canal, $2,298,919.15; total, $8,971,809.82. This estimate is for the construction of what is known as the Rock Island route, which is recommended by the committee.

The proposition in the bill is to accept of the proffered grant of the Illinois and Michigan Canal made by the State of Illinois on the terms proposed, and to construct, under the direction of the Secretary of War, the Illinois and Mississippi River Canal (called the Hennepin), thus connecting the great water systems of the East and West.

Your committee deems it unnecessary to enter more fully into a description of the proposed canal in this report, but would respectfully call the attention of the House to considerations in favor of the passage of the bill.

## WHY THE BILL SHOULD BE PASSED.

The four great departments of industry which give employment to our people are agriculture, mining, manufactures, and commerce, and that it is the duty of the Government to promote and protect each of these branches by wise and appropriate legislation is acknowledged by all, and it must be conceded that the cost of transportation is a factor of the highest importance, not only to these industries, but, as we hope to show, to the whole country.

In discussing this question it must be borne in mind that the agricultural districts which furnish a surplus of wheat, corn, oats, and barley, lie west of the Alleghanies, and for the most part these cereals are produced in the great valleys of the Mississippi and Missouri and their tributaries. The distance, then, that these products of the farm must be transported to find a market is very great, whether that market be furnished by the more sterile Eastern portion of our own country or abroad, whether in New England or Great Britain. It is, moreover, apparent that to the producer every dollar of the cost of transportation he is obliged to pay in reaching a market which might have been saved is a burden laid upon him without a compensation, and for which there is no justification. A farmer who declines to adopt such improvements as will enable him to produce a crop of corn or wheat at the least possible cost will soon find himself distanced in the race for success. This is equally true of a Government to which is entrusted the legislation necessary to insure the cheapest modes of marketing the products of the soil. In this active and intelligent age the laggard nation is left behind.

Railway rates on wheat mount up to from 12 to 15 cents per bushel between Chicago and New York as soon as lake navigation ceases,

ıile in summer it is scarcely half the higher figure. The propor-
nate charge by rail for the transit of a bushel of wheat between
ıicago and Buffalo would be in the winter from 6 to 8 cents, while by
ce it is generally 2 cents, and often less than that. The freight on a
shel of wheat between Saint Paul and Chicago is from 10 to 12 cents,
ıile Major Benyaurd has shown that by the Mississippi and the
ennepin Canal it would not exceed 6 cents. Now why this difference?
e answer that it is owing to the existence of the Great Lakes and
the Erie Canal, a free water-way on which heavy articles can be
rried at less cost than is possible by railways, and with which pooling
d combination to maintain prices is impossible.

Take another illustration, furnished in the transportation of anthra-
e coal. This fuel is wanted for consumption in almost every city and
lage in the great Northwest, and if the rates of transportation were
luced, as would be the case if the Hennepin Canal was in operation,
e market for this mine product would be increased many fold. This
ıl is now taken from Erie, Pa., and from Buffalo to Chicago for 60
ıts per ton, while the railways west from Chicago charge $2 per ton
ight from that city to the Mississippi River.

Now if this canal was in operation freight on this coal would not ex-
ed 50 cents per ton, thereby saving $1.50 per ton over present rail-
ıd rates, and the saving on salt, iron, nails, oil, glass, paints and all
avy merchandise would be equally great.

Not alone in grain and coal will the construction of this water connec-
n between the two great national water systems of the country prove
neficial to both producers and consumers, but it is believed that it
ll prove a substantial blessing to every manufacturer and employé in
New England, New York, New Jersey, Pennsylvania, and Ohio.
short, it will be the great reducer and regulator of freight rates from
e Missouri and Mississippi to the sea-coast. It will enable the manu-
cturer to obtain a larger and a better market and the producer a
gher price—a benefit to all.

Is further argument necessary to convince the most skeptical that
e construction of this canal, thus forming a link that will connect the
eat Mississippi River with the lakes, thereby furnishing an all-water
ute to the commerce of the East and the produce of the West and
orthwest, is urgently demanded? As it may be asked what relief
ould that afford, we answer, what relief do the lakes, the Erie Canal,
ıd the Hudson River afford? Let us see: All-water rates on grain
om Chicago to Buffalo, a distance of 1,000 miles, are often but 1½ cents
er bushel, and contracts have been made from Chicago to New York,
cluding transfer charges, for 6 cents per bushel. Hence, is not the
nclusion inevitable that if the Hennepin Canal is built and an all-
ater communication furnished from all points on the Mississippi and
issouri Rivers to the lakes the present freight charges will be reduced
ore than 50 per cent.? The railroads are charging from the Missis-
ppi and Missouri Valleys to Chicago from 12 to 15 cents per bushel.
ow, if this canal was constructed, wheat would be carried by water at
om 3 to 5 cents per bushel from corresponding points, which would be
saving over present railroad rates of from 8 to 10 cents per bushel;
d the saving would be equally great on oats, corn, and other products.
ıt suppose the saving to be only 5 cents per bushel over present rail-
ad rates, there would be a saving amounting to millions of dollars an-
ally, which would be left in the pockets of the people, and not find
way into the pockets of railroad magnates. It is thus clearly seen
at the saving, over present railroad rates, in one year would widen

Your attention is called to a communication on this subject, a
to the legislature of New York by that distinguished states
Governor Seymour. He says:

* * * A false and mischievous idea has grown up in our country that
pends upon us for food. This is not true. They can get all they want f
parts of the world; from India, South America, and Australia. In Sout
vast herds of cattle are killed merely for their hides. The carcasses are lef
Great Britain, which buys more of our provisions than any other country, i
railroads in Northern India to cheapen transportation, and is sending far
into that region to improve its agriculture. This policy has been followed
increase in its production of grain. Within a few years the exports of w
India have grown up to many millions of bushels. The governments of E
trying to lessen our exports as they give us such heavy balances against t
this reason, Germany and France shut out our pork, and other governm
great uneasiness, as we disturb their relationship to their people. Our o
is to undersell other countries; as labor is higher here than elsewhere, we
pend upon smaller charges for carrying. That region is fast becoming o
strong competitors. We only sell to Europe because we have cheaper mod
ing our products to their markets. We have been able to do this becaus
cut down the cost of carrying. Our exports grow up as carrying rates are
Railroads have always followed lower rates upon water routes, but the la
cheapest, as is shown by the table of rates in the report on commerce and r
of the General Government. Our agricultural interests are the most import
When water routes are closed by winter, railroad rates go up; when they a
in spring, rail rates go down. * * * We are now able, if we are wise, to
the greater cost of production in our country, owing to our higher wag
cheaper transportation. We are to have a hard struggle to keep our lead
supplying country, and we must give up the delusion that Europe depend
for food. It will only buy of us if we can deliver it to them at the lowest c
delusion that the Old World depends upon us for food stimulates extrav
Congress and corruption in legislatures. If we fail to uphold our water
protection against unjust and unwise charges for transportation, we shall su
future.

## INTERSTATE COMMERCE.

The question of interstate commerce and of cheapening tra
tion has engaged the attention of the whole country for yea
agitation led the Senate in the last Congress to appoint a comm
able and experienced Senators, who have recently reported the

ıole country has shared, and must continue to share, in the benefits d blessings of our unequaled extent of railway facilities; but conding all this does not justify the conclusion that the Government, by ıose authority these corporations have life, should place in their hands e exclusive inland carrying trade of the country. Railway rates ould be regulated in the interests of the people, and your committee e of the opinion that free water transportation is well calculated to :ure that end. On this point the testimony taken by the Select Comttee of the Senate on Interstate Commerce is so conclusive, and apies with such force to the proposed Hennepin Canal, that your comttee insert their conclusions in this report.

THE EFFECT OF WATER COMPETITION UPON RAILROAD CHARGES.

The evidence before the committee accords with the experience of all nations in :ognizing the water routes as the most effective cheapeners and regulators of raily charges. Their influence is not confined within the limits of the territory immeıtely accessible to water communication, but extends and controls railroad rates at :h remote and interior points as have competing lines reaching means of transport water. Competition between railroads sooner or later leads to combination or conidation, but neither can prevail to secure unreasonable rates in the face of direct npetition with free natural or artificial water routes.

The conclusion of the committee is, therefore, that natural or artificial channels of nmunication by water, when favorably located, adequately improved, and properly ıintained, afford the cheapest method of long distance transportation now known, d that they must continue to exercise in the future, as they have invariably exered in the past, an absolutely controlling and beneficially regulating influence upon : charges made upon any and all other means of transit.

WHEAT AND CORN.

As per official estimate the crop of wheat for the year 1884 in the )per Mississippi States was 188,349,000 bushels, and of corn, for the me year, 837,574,000 bushels, making a total of 1,025,923,000 bushels these two staples. Now, it is well known that the market value of s vast amount of grain is determined by the price that can be obned abroad for so much of it as seeks a foreign market. The cost of )duction and the cost of transportation has nothing whatever to do determining the price. It is not, then, perfectly clear that whatever saved in the cost of transportation is an absolute gain to the proer, and, therefore, a failure to secure any possible saving in transporion lays a burden unnecessarily upon the producing farmers of the est.

To more definitely show the immense saving which would be effected the construction of the proposed canal, your committee would again l attention to the amount of wheat and corn produced in the States the Upper Mississippi Valley in 1884, as above stated, showing a al of 1,025,923,000 bushels. Now, suppose one-half is shipped eastrd for consumption and for export, and the saving is only 2 cents per shel, it reaches over $10,000,000 in a single year, whereas, as is beved, the saving is equal to at least 5 cents per bushel, and you have : fabulous sum of over $25,000,000 annually, to say nothing of the ving on heavy articles going west, which would amount to many llions more.

THE EFFECT OF FREE WATER TRANSPORTATION ON RAILWAYS.

Your committee are unwilling to admit that cheapening transportaın on heavy articles, thus benefiting the people, will result in damage

to the great railway interests of the country; on the contrary, we believe that whatever is for the general good will, in the end, prove beneficial to our railways.

We do not desire to antagonize the railways which have done so much to develop the country generally, and the great West in particular. The place these public corporations have to fill is to serve the purpose of rapid transit for passengers and mails, and such freighting as can bear the charges imposed without inflicting a loss on the consumer or producer that is burdensome, but in the matter of all heavy freights not requiring special speed, it is now demonstrated that our extended national water-ways must be brought into use. Missing links like the Hennepin Canal must be constructed and the crippled industries of our country must thereby be restored to a condition of health and prosperity.

### NATIONAL CHARACTER OF THE WORK.

Your committee would point to the important fact, that when the Illinois and Michigan Canal becomes a national work, and the "Hennepin" a part of the same, then will there be a great public water-way connecting Chicago with Saint Louis and New Orleans, on which fleets of barges towed by steam will ply and connect these three great cities of the West.

The sugar, rice, and cotton of the delta of the Lower Mississippi and the valuable lumber of Alabama, Arkansas, and Tennessee will have another outlet at rates which will leave the producer a fair margin, while the produce and manufactured articles from the North will find their way to the consumers of the South at living rates of freight.

When, as it is hoped in the near future will be the fact, we have either a canal cut through the Isthmus, or a way provided for carrying over it our merchant vessels as they ply between New Orleans and the various sea-ports of our neighbor republics of South America, laden with the interchangeable products of the Northern and Southern Hemispheres of the American continent, then our city of New Orleans should be, and we hope will be, in readiness to become the great metropolis of the South as New York is of the East, and will be equipped with a water course permeating every part of our great Mississippi Valley, ay, and through the Great Lakes to the Gulf of Saint Lawrence.

### EFFECT ON OUR EXPORT TRADE.

Your committee would be unfaithful to the interests of this great internal improvement if they failed to call the attention of the House to the intimate connection that exists between our export of cereals, especially of wheat, and cheap transportation. The States of Illinois, Iowa, Missouri, Minnesota, Kansas, and Nebraska, all lying westward from Chicago, are large wheat-producing States. For many years the surplus wheat and flour of the United States has found a market in Great Britain, but it has already transpired that we are severely menaced with competitors for this great market, a fact that demands our serious attention.

Our shipments of cereals to foreign markets have gradually fallen off. In 1880 our exports of these commodities amounted to 288,000,000 bushels and decreased from year to year until in 1885 the shipments had fallen to 162,000,000, being a decrease of 126,000,000 in five years. During the same period there has been a constant increase in wheat shipments to the English markets from Australia, Russia, and India.

e increase in exports of wheat from the latter country have been ıst remarkable. In 1872 the first experimental cargo came to Liver-ol from India. In 1875 she sent only 1,500,000 of bushels; in 1882, ,000,000, and last year India shipped to England over 60,000,000 of shels.

WHAT ENGLAND IS DOING IN INDIA.

How comes it to pass that the shipments of wheat from India have :reased so enormously? The answer is that the English Government s expended large amounts of money, over $100,000,000, to cheapen the ,nsportation of wheat from inland India to the sea-board, and thus the ɔduction of wheat, which before was without a market, has been largely :reased. What, then, is the duty of the American Congress? Shall yield the contest for a market without a struggle? Shall we not :her begin now to improve our natural water-courses and to construct ɔh connecting links as the Hennepin Canal, to the end that the remote rtions of our great country may be brought as near as possible to the ı by cheap freights, and thus maintain a foreign market for our surplus? The period will doubtless come in our country when, with a largely :reased population and a diversified industry, all of our tillable soil ll be required to produce the breadstuffs we shall then need for home ɔsumption; but time enough must elapse before we reach that point justify a determined effort on our part to maintain for our surplus ·eals that foreign market we have so long enjoyed. Suppose we fail this, and as a consequence the balance of trade turns against the ıited States; will any one contend that financial disaster and com-ırcial ruin would not be the result? If we would avert the dire con-ıuences that most certainly would follow such a changed condition of r foreign trade, we must see to it that our inland rates of transporta-n on our surplus cereals are reduced to a minimum, and your com-ttee believe that the construction of the proposed canal would do more accomplish that end than would be possible in any other expenditure the same amount of money.

SHALL THE UNITED STATES BUILD THE CANAL.

But, says the objector, you may be correct in your estimate of the ɜat importance of cheap inland transportation; it may be true that riculture, mining, manufactures, and commerce may all be greatly ıefited in the way you describe, but it is not right for the General vernment to undertake to build canals within States; the States ·ough which these public improvements may chance to be located ɔuld construct at their own cost.

When the Hennepin Canal is in operation, its benefits will be felt in ɜry county between the Mississippi and Missouri Rivers, and in Kan-ı and Nebraska as well. Indiana and Ohio will send their bitumi-ıs coal, and Pennsylvania her anthracite and her iron more cheaply the West, and so will New England and New Jersey feel the influ-ɜe of reduced rates of freight; while the Empire State, with her un-aled metropolitan seaport, will share with Philadelphia and Balti-ɔre in the increase and permanence of a foreign trade, which without eap inland freight would not exist. Shall it be said that Illinois ould do all this? Nay, verily. Your committee are brought to the nclusion that too much has already been done by the General Gov-nment in the improvement of our water courses to allow such an un-st policy to prevail; too many millions have already been expended

on improvements not a whit more national in their character than the canal, by which it is proposed to simply remove an obstruction that nature has left in the way of connecting the waters of the Gulf of Saint Lawrence with those of the Gulf of Mexico, to justify the conclusion that any single State should construct this canal.

COMMENDATIONS AND INDORSEMENTS.

No public improvement, in the knowledge of your committee, has received the indorsement that this has. As early as the year 1845 a water convention was held at Memphis, Tenn., with the Hon. John C. Calhoun, that strict constructionist of South Carolina, as presiding officer. It was represented by five hundred and fifty-three gentlemen from sixteen States, and the following resolution passed that body unanimously:

*Resolved*, That the project of connecting the Mississippi River with the lakes of the North by a canal, and thus with the Atlantic Ocean, is a measure worthy of the enlightened consideration of Congress.

In 1872 the President of the United States called the attention of Congress to this canal and other water improvements, and suggested the selection of a committee, with power to investigate and act. In compliance with the President's wish, the Senate selected seven out of that body, Senator William Windom, of Minnesota, being its chairman.

By referring to page 233 of the report made by that committee to the Senate, you will find the following statement made:

The freight charged by the Chicago, Rock Island and Pacific Railway Company is 8 cents per 100 pounds from Henry to Chicago, between which points there is water competition, while the rate to Tiskilwa, only 12 miles farther west than Henry, and beyond the effect of canal competition, is 15 cents per 100 pounds, nearly as much for 12 miles as for 100 miles.

And it is proper for your committee to state that both these points are on the proposed canal, Henry east of Hennepin and Tiskilwa west.

A further reference to that report of the Senate committee will show its indorsement and strong reasons why it should be constructed in the interest of commerce. The general assembly of the State of Iowa did, in 1864, in 1870, in 1874, in 1880, in 1882, in 1884, and at the present session of its legislature, memorialize Congress for the construction of this canal. Illinois, through its legislative body, has also repeatedly memorialized Congress and requested its representatives to support this improvement. The legislature of New York has twice passed resolutions, almost unanimously, urging Congress to construct this canal, and requested its representatives to vote an appropriation therefor.

In 1884 President Arthur saw proper to call the attention of the Forty-eighth Congress by special message to the public importance of this water communication, and therein recommended its consideration.

The Forty-seventh Congress ordered a survey of said canal and appropriated $30,000 to pay the expense.

Maj. W. H. H. Benyaurd, of the Civil Engineer Corps, made said survey, and his reports and estimates are on file, and we are confident that a careful perusal of said report will satisfy the most skeptical that this canal should be built because of its worth and merit.

Every convention that has been held in the interest of Western waterways has given this canal a favorable indorsement. We will refer to a few particularly: One in Saint Louis, in 1880; one in the city of Davenport, Iowa, in 1881; one in New Orleans, in 1885, and one in Saint Paul, last September. These conventions were composed of hundreds of delegates, representing all the States in the Mississippi and Missouri Valleys, North and South, with governors, members of Con-

ss, and United States Senators of those States, and it pleases your nmittee to say that after careful and general discussion all of these at bodies passed resolutions unanimously indorsing the construction this canal, and urging Congress to make an appropriation therefor. It has been indorsed twice by the National Board of Trade, held in ashington in July, 1884 and 1885, and by the Industrial Congress, ld in Chicago in May, 1884.

In March, 1885, a select committee was appointed by the Senate to vestigate and report upon the subject and regulation of transportan by railroad and water routes. By reference to pages 167 to 175 insive, it will be seen that that committee, after careful investigation, ncluded that this water improvement was absolutely necessary in the erest of commerce, and that the General Government should, without ther delay, make the necessary appropriation. The last Congress s petitioned by the leading wholesale merchants, business men, and nufacturing companies of New Haven, Meriden, Norwich, and Hartd, Conn.; of Manchester, N. H.; of Fitchburg, Worcester, Springld, Pittsfield, North Adams, and Holyoke, Mass., and of Pittsburg, Pa. The commercial bodies of Chicago, Saint Paul, Minneapolis, Saint uis, La Crosse, Duluth, Davenport, Muscatine, Rock Island, Buffalo, racuse, and New York have all memorialized Congress for its conuction.

The New York Board of Trade and transportation has a membership one thousand business firms in New York City. It devotes its ine and time to the consideration and decision of questions of public erest. It is not a trading body. Twice this board has indorsed the Hennepin Canal," after careful consideration and full discussion.

Your committee would call particular attention to the language of one these indorsements, viz, the Produce Exchange of New York. They mber three thousand members, and they never take action without reful deliberation by reference to proper committee, and then act on eir report. And it must be said to their credit, they gave this canal eir unanimous indorsement, which was prefaced by saying:

> That this was the first time since their organization that they had recommended General Government to aid or construct internal improvements, or had asked or ised their Representatives in Congress to vote appropriations for any internal imvement of any kind; that this was an exception, and if they were not firmly conced that it had merit they would not depart from their universal rule.

## WOULD THE EXPENDITURE BE A PROPER ONE.

Again it may be thought that the amount required to construct the Hennepin" and improve the present canal ($9,000,000) is too large a m for such a locality.

Reference has already been made to the saving of $10,000,000 per nnum on grain freights alone, which it is believed this great improvent will secure, and in this connection your committee beg leave to fer to the amount of internal revenue tax collected in the last fiscal ar from the States that produce so largely the cereals for which cheap ansportation will be secured by building this canal.

| | |
|---|---|
| linois | $23,075,864 61 |
| wa | 2,222,059 15 |
| ansas | 170,202 02 |
| ebraska | 1,971,296 12 |
| innesota | 492,704 97 |
| issouri | 6,276,165 85 |
| | 34,228,292 72 |

Whenever it shall be in the future, as it has been in the past,
great Northwest shall be called on to vote for the improvemen
harbors and rivers, or to do anything properly demanded in the
of commerce, its Representatives will not withhold the needed a
your committee will not doubt but that Congress will, by the
of this bill, accept the grant of the Illinois and Michigan Canal
ously offered by the State of Illinois, and construct the Illin
Mississippi River Canal, thus uniting the great water systems of t
and West and of the North and South in one grand highway for i
commerce.

Your committee therefore, in consideration of the importance
construction of the Hennepin and Rock Island Canal, and of the e
ment of the Illinois and Michigan Canal, in the interest of the gr
rapidly growing commerce of the country and of the people, an
cially of the Northwest, report back said House bill 3022 with a
tute, and recommend the passage of the substitute.

C

CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 575.

# JOHN P. BRINEGAR.

RUARY 17, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

MORRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4116.]

*Committee on Invalid Pensions, to whom was referred the bill (H. R. 16) increasing the pension of John P. Brinegar, submit the following port:*

'e find that claimant enlisted August 6, 1861, in Company E, Fourth ıtucky Volunteers, and was discharged October 8, 1864; that at the tle of Chickamauga, September 19, 1863, he received a gunshot ınd in his right side, for which he was granted a pension November, 1, at the rate of $8 per month. This pension has since been in-ased as the disability increased, until he is now receiving $24, the ıry being rated as equivalent to the loss of a hand.

Dr. D. M. Claggett testifies February 10, 1886:

hereby certify that I have this day examined John P. Brinegar, and find an exten-e necrosis of the crest of the ileum, discharging a stinking ichorous pus through e tortuous sinuses, one in front of the ileum, one near the back bone, and one near posterior extremity of the ileum. I have treated him at various times during the twelve years, and removed several spicula of dead bone. The discharge has been ıinuous since I first treated him, and very moderate exercise has been sufficient ıuse it to become inflamed and painful, and discharge more copiously. He is and been for past twelve years entirely unfit to perform manual labor, except at the of his life, and from the situation of the sinuses at the back he is not able to wash dress them as they require without the aid of an assistant.

r. E. S. McDonald corroborates the above, adding:

ıat the wound is so situated as to make it impossible for the patient to cleanse dress it properly, thereby necessitating the services of a nurse or other person. r a careful examination I feel warranted in saying that the injury above described tly endangers the life of the patient from pyæmia and its close proximity to the ominal cavity. He is a continual sufferer and wholly incapacitated for manual r.

Hon. A. M. Dockery, a member of this House, testifies that he is per-ally acquainted with the claimant and has been for fifteen years; t he is an honorable man and a great sufferer; he also vouches for s. Claggett and McDonald as accomplished physicians and gentle-n of high standing. As the law now is, the Department can fix no rate ween total disability and that condition which requires the constant and attention of another person. In many respects the condition the man is much worse than that of a helpless paralytic would be. is a constant sufferer, requiring a portion of the time the attention

of another, and with a disease so offensive as to partially exc
from the society of friends and neighbors, with no possible h
covery and uncertain as to what moment death may come,
the certainty that any sudden or violent exercise on his part w
hasten it.

Your committee recommend the passage of the bill with a
ment striking out "fifty" in line 6 and inserting "forty."

O

: CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
t Session. } { No. 576.

# J. FRANCIS HOPPER.

RUARY 17, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

MORRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4918.]

*Committee on Invalid Pensions, to whom was referred the bill (H. R. 918) granting a pension to J. Francis Hopper, submit the following report:*

laimant enlisted June 22, 1861, in Company C, Sixth Missouri Cavalry, promoted to lieutenant December 28, 1861, and to captain February 862, and resigned November 17, 1862, on account of ill-health. He e application for pension July, 1884, alleging injury to ribs of left by horse falling and effects of fever, rheumatism, and heart dis- This was rejected on the ground that no pensionable disability existed since filing. The medical board of examiners at Leaven- th report him one-fourth disabled; no other examination is shown. t. J. C. De Gress, United States Cavalry, testifies:

at Captain Hopper, on the march from Balesville to Helena, Ark., in 1862, was ked with fever, the result of malarial influences and exposure, whereby he be- wholly unfitted for duty. He suffered from this disease at time of resignation. knows these facts from having served in the same regiment with him and hav- been instrumental in getting his resignation accepted. He was also intimately ainted with claimant from April 15, 1862, until his resignation was accepted. At ime his resignation was accepted leave of absence could not be obtained, and ondition was such that he had to resign or die. He could not have survived if ad remained at Helena, Ark. He was utterly used up with fever and rheumatism the surgeons gave him no hope of recovery unless by change of climate.

Villiam S. Burke testifies:

am personally acquainted with the above-named claimant, having known him ately since January, 1861. We are both newspaper editors by profession, and ted together in the same office at Council Bluffs, Iowa, and Leavenworth, Kans. he time I first knew claimant and at enlistment at Council Bluffs in the Fourth Infantry, he was a strong, healthy, and able-bodied man, full of vigor, and to ppearances free from any disease whatever. In August, 1862, he returned to ncil Bluffs on sick leave as captain of the Sixth Missouri Cavalry, having been oted from the ranks. At that time he was suffering from bone-break or swamp and rheumatism, and was a very sick man. He was treated by Dr. P. J. McMa- since deceased, and who stated to me on one occasion that he feared Hopper was letely broken down. In January, 1863, he again returned to Council Bluffs. He much debilitated and broken down by disease. I have known him ever since, know that by reason of said disease he has been unable to earn his living by ial labor.

'illiam Hickman, a comrade, testifies as to injury by horse, and of his ing rheumatism in service. Claimant states under oath that he was

treated by Dr. M. W. Robbins, surgeon of the regiment, and b
dent physician by order of Dr. Robbins; that in 1872 and 187
treated by Dr. Davis, whom he is unable to find; that the dis
continued ever since discharge, and by reason of it he was ob
abandon his work as printer.

The evidence seems unusually clear, definite, and strong. C
currence in the service there can be no doubt. The amount of
will be decided by the examining surgeons who may hereafter
him

Your committee recommend the passage of the bill, with an
ment striking out all after the word "cavalry."

H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
1st Session. } { No. 577.

# SILAS S. WHITE.

UARY 17, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

MORRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 1398.]

*Committee on Invalid Pensions, to whom was referred the bill (H. R. 98) to grant a pension to Silas S. White, submit the following report:*

'e find that claimant served from April, 1840, to April, 1845, in ıpany K, United States Infantry, and from November 21, 1861, to ›ber, 1862, in Company G, Seventy-seventh New York Volunteers. ıly, 1876, he applied for a pension, alleging injury to back by falling sand-bag carried by a comrade while building fortifications before ktown, Va. The records in the War Department show that he was harged upon surgeon's certificate October 2, 1862, on account of "an ry to the back caused by the fall of a sand-bag on him at Yorktown. is unable to assume the erect position." He was discharged at the r York City Hospital, where he was treated, but cannot give the ıes of the surgeons. Two comrades of claimant testify in the case, ›me Hewitt and John Thornton. Hewitt says that he served in the ny of the United States in the war of 1861 in same company with mant; that their company was employed in 1862 in fortifying in ıt of the enemy at Yorktown. Knew White before he went into the my; he was a hearty man. Know that claimant was injured there Yorktown in line of duty, and that he went to the hospital, and that went home on furlough on account of his injuries rendering him unfit service. Knew claimant after his discharge from the Army; lived r neighbor to him, and he was not able to work much for about two rs after he came home; could not do more than one-third as much k as before.

omrade Thornton testifies substantially the same, and adds that he ornton) was sent with claimant to the hospital at Annapolis, Md., from there they were allowed to go home to New York State on ough. At Saratoga Springs they were examined by a surgeon who nounced them unable to return, and extended their furlough thirty s; then they started to return to their regiment and got as far as any, when White was stopped by a hospital surgeon and pronounced t for service, and detained there in hospital a month. They started in for their regiment, and got to New York City, where they were ained and treated by Dr. Vanderbilt for about six weeks, and then harged.

'he report from Surgeon-General's office shows claimant entered the

He has been unable to perform manual labor for eight years. is compelled to help him dress and undress, and deponent con disease permanent. Deponent thinks his disabilities result f ries of the spine, which cause the paralysis.

The medical examiner at Falls City, Nebr., in 1878, reports totally disabled. February 9, 1886, Drs. Cox and Williamson, boldt, Nebr., made an examination of claimant and report:

Find blind piles, which bleed often on defecation; also prolapsus of re inch in length, at rest; soreness of abdominal muscles, and great tenderne of kidneys and the lumbar muscles; great pain in defecation and in urin retention at times; indication of diseased condition of kidneys; is unable manual labor for a livelihood; with a disability of three-fourths time at l disability reaches back through a period of ten years' personal acquaint part of Dr. J. G. Cox and five years on the part of Dr. A. L. Williamson.

This soldier is now over seventy years of age, unable to per manual labor, and without any means of support. He served hi faithfully as a soldier for six years. The country ought to pr him for the few remaining years that he will live.

Your committee therefore recommend the passage of the bill

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ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 578.

# NIRA D. GWYNNE.

RY 17, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

DRRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 1361.]

*mmittee on Invalid Pensions, to whom was referred the bill (H. R. ) giving a pension to Nira D. Gwynne, submit the following report:*

find that claimant is the widow of Nat. M. Gwynne, who enlisted 0, 1864, in Company H, Thirteenth Regiment Ohio Volunteer y, and was honorably discharged March 21, 1865; that in the t on Petersburg, Va., his left arm was so badly shattered that an iate amputation was necessary. He also received a wound at the ime in his knee. For this he received a pension until his death, ry 6, 1883. His widow filed her application for a pension, alleg- at he died from the effects of nervous prostration, as a result of wounds. She is unable to show that the wounds were the direct mediate cause of his death, and consequently cannot receive a n through the Department. The evidence is very strong that the 's death was the result of his injuries received in the service. Joshua Thorne testifies:

consulted professionally by Nathaniel L. M. Gwynne about ten years ago, several occasions afterwards up to about three days before his death, in , 1883. When I first saw him I found extreme hyperesthesia of the left r and of the cervical spine, with severe pains in the shoulder, neck, and I found that the aforesaid pains proceeded from disease of the nerves of , and resulted from the gunshot wound for which the arm had been ampu- I found neural salerosis in the median and in the ulnar, and my opinion t it was a case of neural selerosis which had involved the brainial plexus, the spine, and the brain. In subsequent examinations I found the brain to be so d as to produce frequent attacks of mania, and for some time before death neuralgia of the pneumogastric nerves was found. About three days before saw the patient and found pains in the brainial plexus, in spine, and head, in stomach and partial mania. I never saw him after.

Robert L. Wood, one of the most learned and able physicians of iri, says:

not treat Mr. Gwynne for his malady at any time, and I can only speak of his n as a personal associate. His arm was amputated about 3 inches below the r joint, if I am not mistaken. The injury, which necessitated the amputation irm, was so severe that it shattered the bone terribly. The plexus of nerves ng the arm was literally torn to pieces. In consequence of the fracture it was impossible to obtain a healthy stump. The end of the arm-bone (humerus) rosed. As a result of the serious injury of the nerves to the arm, the shoulder away, the shoulder-blade and end of the collar-bone standing out very prom- (muscular atrophy). The stump of the amputated arm was quite often in a

state of suppuration. Mr. Gwynne also received a wound in the knee. This knee constantly suppurated. Beyond a questionable doubt, the diseased arm-stump and the necrosed knee were the causes, direct and indirect, of his death.

In a letter to the committee Maj. William Warner, a member of this House, speaks of the distinguished services of the soldier as follows:

Permit me to state that for many years I was intimately acquainted with Mr. Gwynne. He lost his arm at Petersburg, July 30, 1864; at the same time he received a gunshot wound in the knee. For two years before his death I was, through business connected with the Grand Army of the Republic, in company with the deceased nearly every day. He was a great sufferer from his wounds, that in the knee being a running sore. Time and time again he has told me of his sufferings from these wounds. His nervous system was broken down, so much so that at times he had no more control over himself than a child. He often said to me that he knew his injuries would cause his death, yet if he had his life to live over again, if his country needed his services, he would cheerfully give them, even with the absolute knowledge that he would be thus mangled. This I believe, for no braver man than Gwynne ever entered the Army. As a beardless soldier boy, on July 30, 1864, he daringly rescued the flag of his country from the very jaws of the enemy's guns; in returning with it to his regiment his arm was almost torn from its shoulder, but he held onto the flag, returning it to the Union line baptized with his blood. For his heroic conduct on that day he received one of the few gold medals which Congress ordered to be presented for distinguished bravery on the battle-field. I do not entertain a doubt that but for his wounds he would have been alive and well to-day. He has left a wife and one child, a boy, in destitute circumstances; let them realize the fact that the country remembers one of its bravest defenders in providing for his widow and orphan.

It seems reasonable to assume that his death was the direct result of his military service. Believing it to be the duty of the Government to provide for this widow and her helpless child, your committee recommend the passage of the bill, with an amendment striking out all after the word "cavalry" in line 6 and inserting "subject to the conditions and limitations of the pension laws."

C

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 579.

# JOSEPH M. FEATHERS.

FEBRUARY 17, 1886.—Laid on the table and ordered to be printed.

RRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 3121.]

*mittee on Invalid Pensions, to whom was referred the bill (H. R. granting a pension to Joseph M. Feathers, submit the following*
*:*

case has been fully and carefully examined by agents of the
Department and a large amount of evidence has been sub-
It seems to be clearly proven that he came out of the service
as he entered it.
committee report adversely, and ask that the bill lie on the

{ CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
{ Session. } { No. 580.

# JOHN C. WHITE.

FEBRUARY 17, 1886.—Laid on the table and ordered to be printed.

ORRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4499.]

*mmittee on Invalid Pensions, to whom was referred the bill (H. R. ) granting a pension to John C. White, submit the following report:*

imant asks a pension on the ground of gunshot wounds and rheu- m. There is no record of either disability, and no evidence except aimant's affidavit is offered to prove incurrence or continuance. eports of two examining boards show no disability from gunshot ds. With proper proof a pension might be allowed for rheumatism, is shown to exist now.

the absence of proper evidence, your committee report adversely, sk that the bill lie on the table.

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 581.

# JOHN B. ROSS.

FEBRUARY 17, 1886.—Laid on the table and ordered to be printed.

IORRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 724.]

*Committee on Invalid Pensions, to whom was referred the bill (H. R. ) to place the name of John B. Ross on the pension-roll, submit the owing report:*

find that this soldier enlisted in Company F, Thirteenth Kansas nteers, August, 1862, and was discharged in March, 1863. In 1876 pplied for a pension, alleging spinal affection, caused by hard hing. This was rejected in the Pension Office, on the ground that lisability existed prior to enlistment. Claimant was discharged on rgeon's certificate of disability, dated March 23, 1863. In it Dr. H. Grimes, a well-known surgeon of Atchison, Kans., says:

ave carefully examined the said John B. Ross, and find him incapable of per- ing the duties of a soldier, because of spinal disease of long standing, existing to enlistment. He is unable to walk upright, and has done no duty since the le of November, 1862. He is entirely unfit for the service, in my opinion.

wo special examiners have investigated the case, and a large number itnesses were examined. A number swear positively that they of no disability at time of enlistment; quite as many testify that mplained a great deal of a lame back and walked with a cane. The nce that the disability existed at time of enlistment is strong and ive. He served less than two months in the most pleasant season e year before he went to the hospital. He alleges no particular or place where he received any injury, but claims that it was the t of hard marching.

ter a careful examination of the evidence in the case, your com- ee recommend that the bill lie on the table.

GRESS, } HOUSE OF REPRESENTATIVES. { REPORT
sion. } { No. 582.

# WILLIAM CANNON.

EBRUARY 17, 1886.—Laid on the table and ordered to be printed.

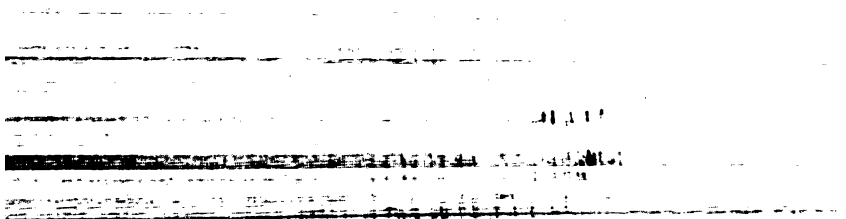
RILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 5001.]

*mittee on Invalid Pensions, to whom was referred the bill (H. R. for the relief of William Cannon, submit the following report:*

nt asks a pension for disease of the eyes, contracted in the The case was thoroughly investigated by the special ex- n department of the Pension Office. Your committee have l the evidence submitted with care, and conclude that the had weak eyes prior to enlistment; that they were very much after his discharge as they were before the service. does not seem to be sufficient evidence to justify your com- reversing the decision of the Pension Department, and they report adversely, and ask that the bill lie on the table.



GRESS, } HOUSE OF REPRESENTATIVES. { REPORT
sion. } { No. 583.

# JOHN H. ATCHISON.

BRUARY 17, 1886.—Laid on the table and ordered to be printed.

ILL, from the Committee on Invalid Pensions, submitted the following

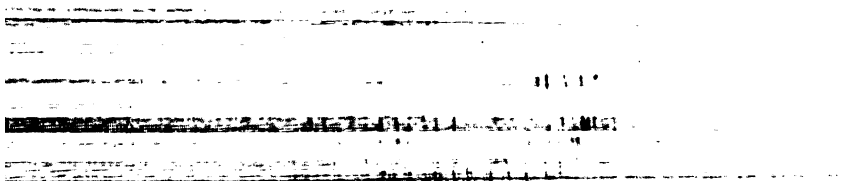
## REPORT:

[To accompany bill H. R. 732.]

*ittee on Invalid Pensions, to whom was referred the bill (H. R. nting a pension to John H. Atchison, submit the following re-*

it asks for a pension for an injury claimed to have been re-
ine of duty while a member of Company C, Eighty-fifth Illinois
s. The case has been thoroughly investigated by special ex-
om the Pension Department, and found to be without merit.
mmittee have carefully examined all of this evidence, and,
ived at the same conclusion, report adversely, and ask that
on the table.

O



NGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
ssion. } { No. 584.

# JOHN H. WHITAKER, GUARDIAN.

EBRUARY 17, 1886.—Laid on the table and ordered to be printed.

RILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 1424.]

*mittee on Invalid Pensions, to whom was referred the bill (H. R. for the relief of John H. Whitaker, guardian, submit the follow- port:*

ill was evidently intended for the relief of the minor children t Porter, deceased, formerly in Company B, Sixty-seventh Ohio ers. The evidence submitted shows that soldier's death was esult of his military service.

ommittee therefore report adversely, and ask that the bill lie able.

CONGRESS, Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 585.

# FANNIE E. EVANS.

UARY 17, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

LOUTITT, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4426.]

*Committee on Invalid Pensions, to whom was referred the bill (H. R. 426) for the relief of Fannie E. Evans, having had the same under con- deration, beg leave to submit the following report:*

he soldier in this case, George S. Evans, served during the Mexican /in Ben. McCollough's company, participating in the battle of Mon- y and minor engagements under General Taylor, and was dis- ged at the close of the war.

e entered the Union service during the late war, with the rank of or in the Second California Cavalry, on the 16th of October, 1861. was promoted to lieutenant-colonel on December 1, 1861, and to nel February 1, 1863, and brevetted brigadier-general for meritorious ices. In May, 1864, he was appointed adjutant-general of the State alifornia, which position he held for nearly four years. He was ab- on a scouting expedition in 1862, and in command of the expedition owens Lake in July and August, 1862, and was in the various In- engagements at the Spanish Fort and other places. During the ng of 1863 he tendered his resignation, and it was accepted on the of April, 1863. In his General Order No. 14, dated at Camp Doug- Utah Territory, May 31, 1863, he alleges as the cause of his resig- ion serious physical injuries, induced by exposures of nearly two rs of military life, constantly in the service, on the march, or in the d, which had to a certain extent invalidated his performance of fur- r military duty.

Dr. Robert K. Reid testifies under oath that he was a surgeon during late war, and that during the battles at Spanish Fort, Utah Terri- y, General Evans incurred a double hernia, incapacitating him for ther performance of his duties and necessitating his resignation.

Dr. I. S. Titus in a letter to Dr. Reid, dated January 29, 1884, states t he attended the soldier at intervals during the last twelve years of life, and can account for many of the symptoms, which were hard to gnose during his life. Is satisfied that much of the sciatic pains of ch he complained was incident to unusual pressure of his truss neces- y to keep the hernia reduced, and binding him fast across the abdo- n, always preventing him from any physical exertion or labor. This, nected with his tendency to obesity, kept up a certain stasis of circu- ion to a tendency of determination of the blood to the brain, which

was an immediate factor in inducing his attack of cerebral
from which his death resulted.

This claim was rejected by the Pension Office on November
upon the ground that there was no connection as to cause a
between the hernia incurred by General Evans in the service
cerebral apoplexy of which he died. It is, however, shown in t
in the case, the most important of which are cited as above, tha
Evans did contract an incurable disability while in the ser
taking for granted that the physician who testifies to his death
is of an unimpeachable character properly diagnosed this case
lieving, as your committee do, that the statements that the so
of cerebral apoplexy superinduced by the effects of hernia
your committee are clearly of opinion that the meritorious s
General Evans during two wars merit some recognition from hi
and it is therefore recommended that the bill do pass after
same by striking out all after word "cavalry" in line 6 and
the words "subject to the conditions and limitations of th
laws."

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 586.

# MARY A. RIPLEY.

RUARY 17, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

ELLSBERRY, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 5127.]

*e Committee on Invalid Pensions, to whom was referred the bill (H. R. 5127) granting a pension to Mrs. Mary A. Ripley, submit the following report:*

That Mary A. Ripley was a voluntary nurse in the Army of Potomac ring the war of the rebellion, is shown conclusively by the numerous ginal passes among the papers in her case.

She avers in her petition, which is sworn to, that she became a nurse on the personal request of President Lincoln and Surgeon-General nes. The following are extracts from letters of indorsement among papers.

ieut. John J. Gosper, Secretary of Arizona Territory, speaks of her he following commendatory and earnest language:

have been acquainted with Mrs. Mary A. Ripley since the commencement of late war, and am conversant with the fact of her having given both time and ey freely for the comfort of the sick and suffering in the hospitals. Knowing er excellent service in that capacity in these trying times, and knowing further she is in great need of the small amount justly her due from the United States, est earnestly advocate the passage of an act looking to the relief of this deserving worthy lady.

John S. Poler, formerly receiving and distributing agent New York ldiers' Relief Association, says:

t affords me satisfaction to state that with the sick and helpless Mrs. R. was al-ys praised for her uniform kindness and attention. Among the many hospitals ere I have met with Mrs. Ripley in the discharge of the above-named duties, I may me Falls Church, Fredericksburg, Alexandria, Georgetown, and several in and about city. I have no hesitation in saying that I believe her services were of great e to the country at the time when faithful attendants were not plenty.

General Rufus Ingalls, says:

rs. Ripley is one of those ladies who sacrificed much of personal comfort and ns during the war in caring for our sick and wounded soldiers. I personally w of her humane efforts, and that they were of an importance entitling her to recognition now on the part of the Government.

Major Albert M. Edwards, Twenty-fourth Michigan Volunteers, s:

take great pleasure in recommending Mrs. Dr. Ripley, of Alexandria, Va., to kind attention of the officers and soldiers of the Army of the Potomac. Mrs.

Ripley has visited this regiment several times during the past winter as an i
ent agent of the Sanitary Commission. She has brought with her sanitary
for the sick, and with her tender hand and kind words of cheer has soothed
couraged the suffering soldier.

In view of the foregoing and the additional facts that this p
now advanced in age, and in restricted pecuniary circumstance
committee are of opinion that she should be granted the pens
asks for, and therefore recommend the passage of the accomp
bill, with the following amendment: In line 6 of the bill, strike
word "twenty-five" and insert the word "twelve."

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 587.

# LOUISA WEITZEL.

ıY 17, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

LSBERRY, from the Committee on Invalid Pensions, submitted the following

## R E P O R T:

[To accompany bill H. R. 3601.]

*mmittee on Invalid Pensions, to whom was referred the bill (H. R. to increase the pension of Louisa Weitzel, widow of Godfrey Weit- te a major-general of United States Volunteers, respectfully report:*

as graduated from the Military Academy and promoted to the of brevet second lieutenant in the Corps of Engineers July 1,

ɜrved as assistant engineer in the construction of the defenses Orleans, La., from 1855 to 1859, and as assistant professor of ɜring at the United States Military Academy from September, ı January, 1861.

ng the war of the rebellion he served with the engineer company shington, D. C., January to April, 1861, and in the defense of ckens, Florida, April to September, 1861, as chief engineer on ff of Brigadier-General Mitchell, constructing fortifications for ense of Cincinnati, Ohio, October to December, 1861; in com- f company of sappers and miners in defense of Washington, D. ɜember, 1861, to February, 1862, and as chief engineer on the Major-General Butler (Department of the Gulf) February to , 1862, being engaged in the attack and capture of New Orleans 0, 1862, and its subsequent defense, May to September, 1862; ed to the rank of brigadier general of volunteers August 29, General Weitzel was in command of the force in the Lafourche gn, October, 1862, to April, 1863, being engaged in the action of eville, October 27, 1862; the destruction of the rebel gunboat January 14, 1863, and in several skirmishes; he was in com- f the advance in Major-General Banks's operations in Western na April to May, 1863, being engaged in the combat at Camp l April 13–14, 1863, and pursuit of the enemy with several skir- April, 1863; in command of a division at the siege of Port Hud- y 27 to July 8, 1863, participating in the assaults of May 27 and , 1863; in command of a division of the Nineteenth Army Corps Lafourche campaign July, 1863; on the expedition to Sabine 'exas, September, 1863, and in the Western Louisiana campaign, ber to December, 1863.

During the operations before Richmond, Va., he was in command of the Second Division of the Eighteenth Army Corps, May 2–29, 1864, and chief engineer of the Army of the James May 20 to September 30, 1864, being engaged in the action at Swift's Creek, May 9, 1864; skirmishes and combats near Drury's Bluff May 14–16, 1864, and in constructing the defenses of Bermuda Hundred, James River, and Deep Bottom.

He was in command of the Eighteenth Army Corps (Army of the James) September 30 to December 3, 1864, being engaged in the repulse of the assault upon Fort Harrison September 30, 1864, and the assault of the enemy's lines on the Williamsburg and Nine Mile Roads October 30, 1864.

Promoted to the rank of major-general of volunteers November 17, 1864, he served in command of the Twenty-fifth Army Corps December 3, 1864, to February 4, 1865; as second in command on the first expedition to Fort Fisher December 7–29, 1864; in command of all troops north of the Appomattox River during the final operations against the army under General Lee, March and April, 1865, he having taken possession of Richmond April 3, 1865. From April, 1865, to February 4, 1866, he was in command of the District of the Rio Grande, Texas.

Since the close of the war General Weitzel has served as superintending engineer of the construction of Forts Knox and Popham, Maine, 1866; of the survey and improvement of the Falls of the Ohio River August, 1867, to July, 1882; of the survey and improvement of the Tennessee River August, 1867, to May, 1871; of the improvement of the Ohio River July to September, 1869; of the survey and imporvement of the Cumberland and Wabash Rivers July, 1870, to April, 1873; of the survey of the French Broad River July, 1870, to May, 1871; of the Eleventh Light-House District May, 1873, to May, 1878, and October, 1878, to July, 1882; of the construction of the Saint Mary's Falls Canal and of various surveys and improvements of rivers and harbors in Eastern Michigan from May, 1873, to April, 1878, and October, 1878, to July, 1882; of the management and repairs of the Louisville and Portland Canal June, 1874, to July, 1882; of various surveys and improvements of rivers and harbors in Eastern Pennsylvania, Delaware, and New Jersey, and of the defenses in Delaware Bay and River, from August, 1882, until the day of his death.

From June, 1870, until December, 1883, General Weitzel was a member of many important boards of engineers upon the improvements of harbors and rivers, the location and construction of locks, canals, and movable dams, and the plans and locations of bridges. He was a member of the commission to devise protection for the wharves at New Orleans against the encroachments of the Mississippi River in 1878, and chairman of the commission advisory to the board of harbor commissioners of Philadelphia, Pa., from August, 1882, until his death.

General Weitzel was promoted successively from the grade of lieutenant to that of lieutenant-colonel, Corps of Engineers, and major-general of volunteers.

He received the brevets of major, U. S. Army, "for gallant and meritorious services in the battle of Thibodeaux, La.," October 27, 1862; lieutenant-colonel "for gallant and meritorious services in the capture of Port Hudson, La.," July 8, 1863; colonel "for gallant and meritorious services in the capture of Fort Harrison, Va.," September 29, 1864; brigadier-general "for gallant and meritorious services in the campaign terminating with the surrender of the insurgent army under General Robert E. Lee," March 13, 1865; major-general "for gallant and meri-

is services in the field during the war," March 13, 1865, and major-al of volunteers "for meritorious and distinguished services dur-e war," August 26, 1864.

neral Weitzel died at Philadelphia, Pa., May 19, 1884, and left his w and young children unprovided for in life.

consideration of these facts and of the distinguished services of ral Weitzel during the war and since then, we recommend the ge of the bill.

ɔONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 588.

# LOUISA J. McFARLAND.

ıRY 17, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

ɪLLSBERRY, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 1940.]

*›mmittee on Invalid Pensions, to whom was referred the bill (H. R. ) for the relief of Louisa J. McFarland, having considered the same accompanying papers, submit the following report:*

ɪ McFarland, the husband of claimant, enlisted in the military ı of the United States, and was enrolled December 17, 1863, as a ɔ in Company E, One hundred and twenty-eighth Ohio Infantry, rved until duly discharged, July 13, 1865.

ɪled an application for pension January 21, 1878, and was subse- ⁊ granted a pension, commencing from that date.

basis of his claim for pension, as set forth in his declaration, was hile firing a heavy salute at Johnson's Island, Ohio, April 15, e contracted deafness of left ear and partial deafness of right ear.

ɪ McFarland, the soldier, died May 18, 1881, and claimant filed im for pension, as his widow, February 20, 1882.

-. Craig, M. D., and M. P. Mason, M. D., of Mansfield, Ohio, tes- their knowledge of Allen McFarland, and the cause of his death. Iason says:

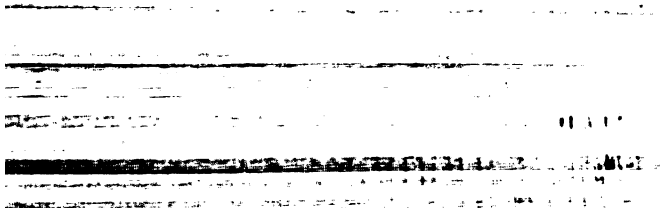
ɜated him at different times in 1879, and until his death, and that he was ⁊ weak, and that he suffered from dullness and dizziness of his head; was very › and exacting, and at times would become offended at the most trifling matter ɔme very violent; that he noticed this peculiarity the first time he met him, t he grew worse all the time, and the injuries caused mental derangement, esulted in his death.

Craig, in his testimony, says:

he was acquainted with Allen McFarland from the 27th of March, 1879, until th; that when he first knew him he found him dull of hearing, troubled with ss and fullness of his head; that he was mentally irritable, and that he con- to grow worse till his death. At times he was very violent, and would lose of himself; noticed this peculiarity the first time I met him, and that he grew ıll the time, and that he regarded his injuries as the cause of his mental aber- which resulted in his death. I was present at the examination after his ınd found arsenic in his stomach.

application of claimant for pension was rejected June 22, 1885, ground that the death of the husband was not due to the service. ı clearly established in this case that the mental condition of iff, which terminated in insanity and death, was caused by the ıs received in the service and in the line of duty, and to deny his ing widow a pension would do her great injustice; and therefore ɔommittee recommend the passage of the accompanying bill.

ɔ



I CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 589.

# MARGARET A. POLAND.

UARY 17, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

ELLSBERRY, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 5154.]

*Committee on Invalid Pensions, to whom was referred the bill (H. R. 54) granting a pension to Margaret A. Poland, report as follows:*

ie claimant is the widow of Alexander Poland, who was killed by Confederates under Colonel Mosby, under the circumstances set out ie extracts following, taken from affidavits on file in the archives of House of Representatives with House resolution No. 4645, first ion of Forty eighth Congress, filed in support of a claim for property n from the farm of claimant's husband for the use of the United es Army, for which no payment has been made by the United States, it:

harles M. Atwell, first Lieutenant, Company B, Independent Loudon igers, a part of the United States volunteer force during the war of rebellion, swears:

pon request of Captain Means, commanding the Loudon Rangers, made to Alex-er Poland on or about November 25, 1863, Poland delivered a load of corn at the dquarters of the Rangers at Point of Rocks. For this he lost his life. He was rdered by rebel soldiers in the midst of his family, consisting of a wife and ten ldren, one child in arms.

Under date of March 16, 1874, E. T. White, one of the officers of the ngers, swears:

iortly after Mr. Poland was killed we captured a squad of Mosby's command; one ie prisoners said in my hearing "we killed old Sandy Poland for trading with the kees," by which he meant, among other things, sending the load of corn to me the before he was killed.

Under date of March 20, 1874, Daniel M. Keys, a Union soldier, swears vas the general opinion that Poland was killed on account of having Government troops.

Under date of July 8, 1873, James McDanough swears:

e lived near Poland and knew Mr. and Mrs. Poland from their childhood; the federates fixed their suspicions upon Poland as one who was aiding the Union ıy and feeding Union soldiers. Rebel scouts were ambushed in the vicinity of sburg, and especially about Poland's house, which was near the Confederate line re roads cross. These scouts belonged to White's and Mosby's battalions. Mr. and was entertaining at his supper table four Union soldiers when a squad of reb-came suddenly into the house, the night being quite dark, and shot Poland in the st of his family. Nine shots were fired at him; at least two of them fatal. The

Under date of March 24, 1874, James Edward Poland swears

He is a son of Alexander Poland. Four Union soldiers were at the supper the time his father was killed, but the rebels were not after them for they sa his father and continued to fire at him until he fell. One of the Union sold wounded. The following morning, while my father's body was lying in th they (the rebels) came and boasted of what they had done to my mother, a same time threatened that they would shoot her if she fed any more Yankee

Under date of March 20, 1874, Alexander Poland, son of de details incident of the load of corn, and corroborates other insta to shooting, and cause leading thereto.

Mrs. Margaret A. Poland swears—

That she is the widow of Alexander Poland, and as to the date of marriag cident of the corn, and then that "on the night following the hauling of Cole's cavalry (Union) was occupying Leesburg; four Union soldiers who tioned as pickets at the cross-roads came and asked if I would give them t per; we had just finished our supper and I prepared supper for them; w were eating I was in the room with most of my children—six of my child under the age of fourteen, one of them, an infant of about three months, I h arms at the time; my husband was standing and waiting on the soldiers. time six rebel soldiers, dressed like the Union men, made an attack upon stood at the back window, two at the front door, and two rushed through th into the dining room and began firing at my husband with revolvers; the my husband until he fell; they shot at my daughter Mary as she ran arou direction of the kitchen door, and then shot at my son and daughter as th stairs, the ball passing through the ceiling near the side of the steps as th up stairs. I concealed myself with my infant in my arms under the table, every reason to believe they would have killed me had they found me a * * * but the room was filled with smoke, and my baby did not cry or least noise until they left, which they soon did, as the firing brought a n Union soldiers who were stationed in the town to know what was the ca disturbance, so that the rebels barely made good their escape; one of t soldiers tried to save my husband and was wounded. * * * My house wa by Union soldiers during the night. * * * The next morning the Unio were ordered away about 10 o'clock, and they had left but a short time w rebel soldiers rode up, and with oaths and threats inquired if Poland was de not they would finish him; one of the rebels got off his horse and came t

Jnder date of July 8, 1873, Rev. James McDonough swears:

knew Alexander Poland and his widow from their childhood. My father's farm, ere I was born, near Leesburg, in Loudoun County, Virginia, was within a mile of irs, and I afterwards lived just across the street from Poland in the town of Leesg; we were as intimate almost as members of the same family. I regarded Poland oyal as myself, and I think no one who knew what I sacrificed for the Union cause l my relations with Abraham Lincoln will doubt my loyalty. * * * At the aking out of the rebellion Alexander Poland was living in independent circumnces, with a farm well stocked with cattle, horses, hogs, and sheep; his farm of acres was pleasantly situated 2 miles west of Leesburg, on the Winchester Pike. * * Alexander Poland was engaged in the business of stock buying and selling, l was very prosperous and successful in his business; he had a fine lot of fat cattle hand, and had some dozen valuable horses. These cattle and horses were all taken the Union soldiers.

Under date of March 16, 1874, E. T. White, quartermaster of the udon Rangers, swears:

was mustered into the service of the United States during the late rebellion about ne, 1862, having served three months previous to being regularly mustered in; term of service continued until June 5, 1865, some three months after the surrender Richmond. I belonged to an independent battalion, receiving our orders direct m the Secretary of War, and reporting to the commanding officers along the lines; acted as scouts and guides for the commands of Generals Max Webber, Roberts, eridan, and others; our principal headquarters were at Harper's Ferry, picketing river from Edwards' Ferry, near Leesburg, by Berlin and Point of Rocks, to Har-'s Ferry. We scouted through Loudoun and adjacent counties, skirmishing with eby's, White's, and Gilmore's guerrillas.

knew Alexander Poland, of Leesburg, Loudoun County, Virginia. I have known from my early boyhood. I was brought up within 3 miles of his residence. I knew Poland to be a good citizen. I never heard of his giving any aid to the rebel se, and I know that the loyal citizens of Loudoun County were in full sympathy h him and his family. With scouting parties I have several times foraged and en meals at Mr. Poland's. We were always supplied with what we called for and e treated with consideration and kindness.

Jnder date of March 10, 1874, Lieut. Charles M. Atwell swears as ows:

uring the rebellion I held a commission from the United States Government as enant, Company B, Independent Loudoun Rangers. * * * I raised Com- B, and had command of said company. * * * I knew Alexander Poland my boyhood. At the breaking out of the rebellion he was carrying on his farm, ted about 2 miles southwest of the town on the Winchester Pike. * * * He known over the country as a man of good circumstances and excellent standing credit. * * * I knew Mr. Poland to be loyal, and as an evidence of his loy- when we sent to him for supplies he furnished them to order. * * * By sad affair (Poland's death) Mrs. Poland has been reduced from affluence to pov- * * * She is now living * * * four doors from where I reside, and acts here stated of her present destitution are known to myself personally.

nder date of May 25, 1874, Eastburn Reeder, New Hope, Bucks unty, Pennsylvania, swears:

the month of October, 1862, my father-in-law, John E. Kenderdine, of Solebury nship, Bucks County, Pennsylvania, received a letter * * * stating that his Robert Kenderdine, was lying sick at Poolesville, Md., with fever; that the ny was to move in a day or two, with orders to leave the sick behind, and request- my father-in-law to come and see after his son. * * * I accompanied him on journey. * * * At Poolesville we found the Army had moved forward across Potomac, taking the sick with them. * * * We found them encamped near esburg, Loudoun County, Virginia. * * * We sought and obtained accommotions in the family of Alexander Poland, of that town. Mr. Poland and his family ated us with great kindness, and did all in their power to assist my father in mak- his son comfortable, providing us with a bed and cooking food for us to take to hospital to him. * * * In effecting * * * removal from hospital to family an acquaintance of the Society of Friends (Quakers), near Goose Creek, Mr. Poland d family were of great service to us and rendered cheerfully the necessary assistce, and we shall ever hold them in grateful remembrance. My father-in-law, John Kenderdine, died in 1868.

The soldier was killed in the battle of Gettysburg. Witness testifies to the loyalty of Alexander Poland and his family.

Under date of March 24, 1874, Mrs. Margaret A. Poland swears:

After battle of Balls Bluff a number of Union prisoners, who were wounded, were brought to Leesburg and put into the Methodist Church known as the Southern Methodist Church. I went, accompanied by my two daughters, to see if they needed anything. I found them suffering even for water. * * * While they remained my daughters and myself carried them food and such other things as they suffered for. We also furnished sheets for about ten of their number. In doing this we found we were making enemies of most of our neighbors.

Sometime after this two Union soldiers, who had been met and stripped of their clothing, shoes, and money, came to my house after dusk and asked to come in and warm; there was snow on the ground, and it was freezing. I took them in, and a short time afterwards, the rebels came and inquired if I had not two Yankees in my house. They came in and searched for them, saying that they had been seen to come there. They did not find them, for I had concealed them. They left, and in a short time returned and said they were there, for they had been seen to go into the house and had not been seen to go out of it. I then told them to search if they liked; this they did, searching every room in the house and pulling the beds to pieces. I had concealed them through a trap door which was hid from view by the head of my own bed. When they (the rebels) had satisfied themselves and left for good, I prepared for them (the Union soldiers) a comfortable supper; I lodged them that night, gave them a pair of yarn socks apiece, a warm breakfast next morning, a pair of boots apiece (for my husband had a shoemaker-shop on the lot), and gave them a supply of provisions, and sent them away before it was fully light.

Under date of March 26, 1874, Mrs. Susan E. Hoffman (daughter) swears:

I don't know why the rebels acted so toward us but that it was our habit to visit and take care of the sick and wounded soldiers of the Union Army; to find them and furnish them with such things, in the way of clothing, as we found they needed. I am satisfied that my father was killed, at the time and in the manner he was, for hauling a load of corn to the camp near Point of Rocks, in compliance with an order sent him the day before.

Your committee are of the opinion that this widow of a devoted loyal man, who was shot and killed for giving aid and comfort to Union soldiers, and on account of faithfully discharging his duty to his country, being left destitute and dependent, should receive a pension, and therefore recommend the passage of the accompanying bill, with the following amendment: Strike out the words "to commence on the twenty-seventh day of November, anno Domini eighteen hundred and sixty-three," in lines 7, 8, and 9.

CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 590.

# JOSEPH FISHER.

FEBRUARY 17, 1886.—Laid on the table and ordered to be printed.

LLSBERRY, from the Committee on Invalid Pensions, submitted the following

## RERORT:

[To accompany H. R. 1881.]

*ommittee on Invalid Pensions, to whom was referred House bill* 1881, *beg leave to submit the following report:*

the 19th day of May, A. D. 1864, Joseph Fisher, who was a special t of the Government, was sent by the provost-marshal of the nth district of Ohio, under whose orders he was placed, to Gallia ty, Ohio, to arrest a deserter from the United States Army. e attempting to make the arrest the deserter shot him, inflicting ere wound, which has partially but permanently disabled him for erformance of manual labor. He made application for a pension e Commissioner of Pensions, but his claim was rejected upon the nd that there was no law authorizing it.

e committee recommend the passage of the bill.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 591.

# JAMES STONE.

FEBRUARY 17, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. TAULBEE, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 926.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 926) granting a pension to James Stone, late of Company H, Fourteenth Regiment Kentucky Volunteers, having examined the same, submit the following report:*

James Stone enlisted as a private in Company H, Fourteenth Regiment Kentucky Volunteers, on October 25, 1861, and was a stout, healthy, and able-bodied man when he enlisted, and while he was in the service and in line of duty, during the winter of 1861 and 1862, he contracted a severe cold from hardships and exposure, which resulted in a disease of back and kidneys, from which he has never recovered.

When he was taken sick his regiment was stationed near his home, and his regimental commander gave him sick furlough to go home, and his affliction grew worse and he never was able to return to his command and was confined to his bed a great portion of the time for several years.

He is now a physical wreck as a result of his service, and your committee are decidedly of opinion that he is entitled to pension.

They recommend the passage of the bill.

H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 592.

# SANFORD GOIN.

ɪUARY 17, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

TAULBEE, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 5870.]

*Committee on Invalid Pensions, to whom was referred the bill (H. R. 370) for the relief of Sanford Goin, having examined the same, submit ıe following report:*

anford Goin enlisted as a captain in Company H, Kentucky State ırds, on 29th day of July, 1864; and while he was in said service and ommand of a battery at Frankfort, Ky., during an engagement with ıfederate soldiers under command of General John H. Morgan, Cap- ı Sanford Goin was handling a piece of heavy artillery, and when he charged it, it rolled back over him, injuring him very badly, causing ıble inguinal hernia, from which he has never recovered. The Adju- t-General has certificate of service on file to correspond herewith.

t is shown by Thomas J. Hutchins, major commanding Thirty-sixth giment of Organized Militia, who was present at the time that the ıry was received, of the nature, at the time, and under the circum- nces set out above, and that said Sanford Goin was acting under the ection of Thomas E. Bramlette, governor of Kentucky, and D. W. dsey, adjutant-general of Kentucky, in their efforts to protect the ' of Frankfort, Ky., against the attack of the rebels, and that there s at the time over $1,000,000 worth of commissary stores in the city Frankfort belonging to the United States Government, which would ıbtless have been destroyed by the rebels had it not been for the gal- t services of Captain Goin and the men in his command.

Iis claim for pension was rejected on the ground that he was not in service of the United States at the time he received the injuries.

While it is true that he had not been mustered into the service of the ited States, he was injured while in battle with the enemy and while ending the property of the General Government from capture and truction.

Our committee believe he ought to have a pension. They therefore ort the same back to the House with accompanying bill, and recom- nd that it do pass.

I CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 593.

# REASE OF RATE OF PENSION NOW PROVIDED FOR DEAFNESS.

UARY 17, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

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CONGER, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 5871.]

ie committee on Invalid Pensions, to whom was referred House bill , having had the same under consideration, report the accompany- substitute and recommend its passage.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 594.

# LEONARD KING.

FEBRUARY 17, 1886.—Laid on the table and ordered to be printed.

Mr. CONGER, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 5249.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5249) for the relief of Leonard King, submit the following report:*

That the relief sought by the passage of this bill was obtained by special act of Congress, approved February 28, 1885, by which the name of Leonard King was placed on the pension-roll as the dependent father of Miles King, late of Company B, Third Iowa Cavalry Volunteers.

Your committee therefore return the bill and recommend that it lie on the table.

RESS, } HOUSE OF REPRESENTATIVES. { REPORT
on. } { No. 595.

# WILLIAM RANDALL.

RUARY 17, 1886.—Laid on the table and ordered to be printed.

R, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 657.]

*tee on Invalid Pensions, to whom was referred the bill (H. R. ting an increase of pension to William Randall, having given lue consideration, submit the following report:*

a thorough examination of all the evidence in this case now e Pension Office your committee discover no just grounds for of the pension of said William Randall, and therefore re- eturn the bill to the House and recommend that it lie on the

NGRESS, } HUOSE OF REPRESENTATIVES. { REPORT
ssion. } { No. 596.

# RACHEL J. FLOYD.

17, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

LINGER, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill H. R. 2053.]

*nittee on Claims, to whom was referred the bill (H. R. 2053) for the f Rachel J. Floyd, having carefully considered the same, respect- port as follows:*

ıse received a favorable report from the Committee on Claims ırty-eighth Congress, from which report it appears as follows:

hel J. Floyd is the widow of Frank B. Floyd, who entered the United States ce as a machinist, December 6, 1873. He was discharged February 21, 1876, liately re-enlisted as a machinist; served until he was again discharged, 9, when he immediately re-enlisted again as a machinist and served until 882, when he died. By the act approved June 16, 1880, relating to machin- Navy, it is provided:

ll men now serving in the Navy who may be discharged as machinists, with -service certificates, entitling them to honorable discharge, and those dis- the said rating with such certificates since the 20th day of November, receive one-third of one year's pay as a machinist for each good conduct have received, or may receive, not exceeding three in number, under the cates; the said gratuity to be received in lieu of re-enlistment as a ma- ler such certificates, and to be in full and in lieu of all claims against the tes in connection therewith for extra pay for re-enlisting, or for continuous for enlistment as a petty officer; and the amount necessary to carry out ons of this act is hereby appropriated out of any money in the Treasury ise appropriated: *Provided*, That nothing herein contained shall be so con- prevent the re-enlistment of machinists in the Navy."

ırds of the Navy Department show that the date of entry for continuous the said Frank B. Floyd, as a machinist in the Navy, was May 6, 1876, and eived continuous-service certificate No. 3338, in September, 1880, and that eived one good-conduct badge at the time of his discharge, May 5, 1879, ificate and badge have been presented by the claimant, his widow, to your for inspection. From the time of his last re-enlistment, in 1879, to his last ıe record shows that he served as a machinist on the Passaic, Standish, on, Colorado, Mahopac, Franklin, and Wabash. During this period the on of conduct in the service is marked or rated "5, excellent," which is the ıde of good conduct in the service. His continuous-service certificate also he was entitled to an honorable discharge at the date of every transfer essel to another, from the time of his re-enlistment in 1879 to the time of kness and death. After the decease of the said Floyd (he leaving no chil- widow made application for the gratuity, viz, one-third of his pay as a ma- one year for the good-conduct badge already earned by him, pursuant to ons of the act of June 16, 1880, above quoted, being the sum of $306, and further sum of $204, being the fractional part of said gratuity earned by ding to the record of his conduct during the last term of his enlistment, not expired at the time of his death, making a total of $510. By a letter

from the Fourth Auditor of the Treasury, hereto annexed and marked A, it will be seen that payment was denied Mrs. Floyd on the ground that her husband died while *in the service.*

The view of the law entertained by the Treasury Department seems to have been that, in order to enable Floyd, or his legal representatives in case of his death, to draw the gratuity or bounty provided by the act of June 16, 1880, he must have completed his full term of three years' service and have actually received his discharge papers, or, in other words, as suggested by Commodore English, Chief of the Bureau of Equipment and Recruiting in the Navy Department, appended hereto and marked B:

"The act above referred to provides for a gratuity, &c., and as P. B. Floyd is dead, the said act could not be construed in his favor, as the applicant for the gratuity must be able to present himself for re-enlistment or be a subject for such re-enlistment at the time the claim is made. * * * In view of his service, the Bureau regrets that the law of July 16, 1880, will not meet the claim of Mrs. Floyd, and especially so as F. B. Floyd had but one month and fourteen days to complete his last enlistment at the time of his death, and suggests that it would require a special act of Congress to meet the case."

Your committee are of the opinion that the deceased, by his most excellent conduct as a machinist in the naval service, fairly and substantially earned the gratuity provided for by the act of Congress before referred to. His widow, the claimant, was left without any property. We think it will be according to equity and good conscience to allow Mrs. Floyd the sum of $510, which is the amount actually earned as "gratuity" by her husband under the act aforesaid.

Recognizing the justice of the conclusions reached by the committee of the Forty-eighth Congress, as above recited, your committee report the bill back and recommend its passage.

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A.

TREASURY DEPARTMENT, FOURTH AUDITOR'S OFFICE,
*May* 31, 1882.

MADAM: Your letter of the 27th instant, submitting your claim as the widow of Frank B. Floyd, deceased, late machinist United States Navy, for gratuity under the act of June 16, 1880, has been received.

In reply you are respectfully informed that the law provides that the gratuity of one-third of one year's pay for each good-conduct badge shall be paid to men serving in the Navy who may be *discharged* as *machinists.*

As your husband was not discharged, but died in the service, and the law makes no provision for the descent of the gratuity to heirs, it is beyond my power to allow your claim.

Very respectfully, your obedient servant,

CHAS. BEARDSLEY,
*Auditor.*

Mrs. RACHEL J. FLOYD,
*Washington, D. C.*

---

B.

NAVY DEPARTMENT,
BUREAU OF EQUIPMENT AND RECRUITING,
*Washington, June* 27, 1882.

SIR: In accordance with your verbal request of this date, relative to the case of Mrs. R. J. Floyd (widow of F. B. Floyd, late machinist in the Navy), who desires to receive the gratuity allowed to machinists, under act of Congress approved June 16, 1880, the Bureau states that the act above referred to provides for a gratuity in lieu of *re-enlistment*, and as F. B. Floyd is dead the said act could not be construed in his favor, as the applicant for the gratuity must be able to present himself for re-enlistment, or be a subject for such re-enlistment at the time the claim is made.

F. B. Floyd entered the service December 6, 1873; served on the Intrepid and Alarm, and was discharged February 21, 1876; he re-enlisted May 6, 1876, and was discharged from the Wabash May 5, 1879; re-enlisted June 9, 1879, and served until his death, April 25, 1882; in all eight years one month and one day.

f his service the Bureau regrets that the law of June 16, 1880, will not meet
of Mrs. Floyd, and especially so, as F. B. Floyd had but one month and
ys to complete his last enlistment at the time of his death, and suggests
ld require a special act of Congress to meet the case.
ontinual-service certificate, good-conduct badge, and ordinary discharge
h returned.
respectfully, your obedient servant,

EARL ENGLISH,
*Chief of Bureau.*

IAN RAY,
*e of Representatives, Washington, D. C.*

TH CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
1st Session. } { No. 597.

# WILLIAM DOLTON.

BRUARY 17, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

r. BUCHANAN, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill H. R. 1501.]

*e Committee on Claims, to whom was referred House bill* 1501, *having considered the same, report thereon as follows:*

The name "Dalton," as it appears in the printed bill, is a misprint for Dolton," as written in the original manuscript bill. The facts appear be as follows: March 7, 1874, the Government, through the Postaster-General, entered into a written contract with William Dolton for e renting by the Government, at the yearly rental of $900, payable n the first days of July, October, January, and April in each and ery year," of a building for post-office purposes at Trenton, N. J., rom and after the 1st day of April, 1874, with the privilege of renewg upon the terms of this lease for a further period of three years, or til the completion of the Government building in Trenton aforesaid." The lease was executed by the Postmaster-General in Washington, C., and by Mr. Dolton in Trenton, N. J. Under this lease the Governnt entered into possession, and rent was paid regularly. Upon the piration of the term named in the lease, to wit, April 1, 1876, no newal of the lease was executed, and no notice of renewal given by e Government, and the option of "three years" or "until the comple-n," &c., was not exercised, but the Government continued in occupancy the building. This, Mr. Dolton claims, made the Government a nant from year to year, as a tenant holding over. That is undoubtedly e law, and applicable to this case, if by the terms of this lease a formal newal, or notice thereof, on the part of the Government, was necesry. The Government remained in possession up to July 31, 1877, when e post-office was removed to the new building.

It is claimed by Mr. Dolton that on July 31, 1877, the Government ilding was not completed, but that the lower story, intended for the st-office, was hastily prepared for occupation in advance of the cometion of the building. This is not denied, but differences exist as to e date when the building was in fact completed. Mr. Dolton has been id the rent up to July 31, 1877, accepting it under protest, claiming ) that the Government being a tenant from year to year, and having ntered on another year, he was entitled to rent up to end of the year, wit, April 1, 1878; (2) that if a renewal was unnecessary, then the overnment became a tenant for three years additional, not having exrcised its option; (3) that if it believed that by the terms of the lease no

ing the name, the bill do pass.

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*Amendment.*

Strike out the name "Dalton" wherever it occurs in the bill and titl
in lieu thereof the name "Dolton."

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 598.

# R. D. BECKLEY AND LEON HOWARD.

RY 17, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

RIGG, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill H. R. 5872.]

committee, to whom was referred the petition of R. D. Beckley on Howard, beg leave to report that upon examination they as- that said Beckley and Howard were employed by the Doorkeeper Forty-eighth Congress as laborers, at the rate of $720 per an- hat they performed faithfully all of the duties assigned to them rers; that in addition to their duties as laborers they each per- the full duties of a messenger, to which they were assigned by orkeeper, from January 2, 1884, to July 7, 1884, and again from ber 1, 1884, to March 4, 1885, aggregating nine months and six hat the compensation of messengers employed as they were is per annum. They ask in addition to the amount they received rers to be paid the sum of $368, the amount of difference in the sation of laborers and messengers.

committee respectfully recommend that the additional compen- be allowed them, and they report the accompanying bill for their vith recommendation that it do pass.

C

)TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 599.

# ARVAH HOPKINS.

FEBRUARY 17, 1886.—Laid on the table and ordered to be printed.

r. GEDDES, from the Committee on War Claims, submitted the following

## REPORT:

[To accompany bill H. R. 244.]

*he Committee on War Claims, to whom was referred the bill (H. R. 244) for the relief of Arvah Hopkins, have considered the said bill and report thereon as follows:*

This claim is for rent of houses used and occupied by the Federal oops at Tallahassee, Fla., during the war for the suppression of the bellion. In support of this claim duplicate vouchers are submitted, gned by the officer who occupied the premises, stating the time they ere occupied and the reasonable rental value.

The following statement is made, forming a part of said voucher:

The obligation of the Government to pay rent for buildings occupied in captured ces being questioned, this voucher is given with the understanding that the payint thereof is subject to the decision of the Quartermaster-General.

The true policy to be adopted in this class of cases is expressed in e act of February 21, 1867, which prohibits "the settlement of any aim for the occupation of or injury to real estate when such claim iginated during the war for the suppression of the Southern rebellion a State or part of a State declared in insurrection."

The vouchers relied on in this case do not constitute a contract. The utual assent of the parties does not appear, but is expressly negatived the writing offered. A contract is not necessarily created by the ere fact that a voucher or receipt was given for property taken in the iemy's country. This does not make the Government liable to pay r it.

It is true the Army regulations of 1861, as corrected to June 25, 1863, rovides that—

All property, public or private, taken from alleged enemies must be inventoried and ly accounted for. If the property be claimed as private, receipts must be given to ich claimants or their agents.

In pursuance of such regulations officers occupying high military ositions during the late war issued a great variety of instructions to ubordinate officers. In some it was said that enemies "will hereafter e fully indemnified."

These orders and acts have never been recognized as sufficient to reate an obligation to pay for the property taken. The laws of war annot be changed in that way. The laws of war are prescribed by nother and different power. They cannot be abrogated by Army reg-

ulations. The vouchers furnished in this and like cases was a that was judicious and wise, as they operated to preserve the of military operations. They provided the means of ascertai proper amounts in such cases, if Congress should ever deem i ent or practicable to make compensation.

Congress, while providing for the payment of quartermas commissary supplies, taken in the loyal States, by the act c 1864, has made provision applicable everywhere, as follows:

> That the jurisdiction of the Court of Claims shall not extend to or includ against the United States growing out of the destruction, appropriation of, to property by the Army or Navy, or any part of the Army or Navy, eng suppression of the rebellion from the commencement to the close thereof.

Your committee do not consider it advisable to change tl heretofore pursued by Congress. This property, occupied in a place during the war, should not be compensated for, but cla the innumerable claims for losses growing out of our late wa

Your committee therefore report against the allowance of t and recommend that the bill do lie upon the table.

C

NGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
ssion. } { No. 600.

# JOHN M. HIGGINS.

EBRUARY 17, 1886.—Laid on the table and ordered to be printed.

DES, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill H. R. 940.]

*mittee on War Claims, to whom was referred the bill (H. R. 940) relief of John M. Higgins, having considered the same and accom- g papers, submit the following report:*

aimant in this case seeks compensation for property owned by ıe month of June, 1864, at Dalton, Ga. He says it was worth ınd that the same was taken from him by the Army of the States under the command of Lieutenant Haste, of Indiana, and Laibolot, of the Second Regiment of Missouri Volunteers. He ıt he was loyal to the Government of the United States.
ling this claim to be correctly stated, as matter of fact no com- n can be allowed for the loss. It was property held and owned surrectionary State, and was seized during active hostilities. general legislation of Congress has been against allowing this claims, and your committee see no good reason for a change of cy. There is nothing so exceptional in this case as to warrant ımittee in departing from the general rule, and therefore rec- that the bill in this case do lie upon the table.

O

NGRESS, } HOUSE OF REPRESENTATIVES. { REPORT 600.
ssion. { Part 2.

# JOHN M. HIGGINS.

FEBRUARY 24, 1886.—Ordered to be printed.

NE, of Kentucky, from the Committee on War Claims, submitted the following as the

## VIEWS OF THE MINORITY:

[To accompany bill H. R. 940.]

ot concur in the report of the majority of the Committee on ims in the case of John M. Higgins.

W. J. STONE.

I CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
t Session. { { No. 601.

# JANE C. DYER.

FEBRUARY 17, 1886.—Laid on the table and ordered to be printed.

EDDES, from the Committee on War Claims, submitted the following

## REPORT:

[To accompany petition of Jane C. Dyer.]

*Committee on War Claims, to whom was referred the petition of Jane Dyer, having examined the same and accompanying papers, submit the lowing report:*

ne facts of this case bring it clearly within a class of cases in nu- ous instances considered by this committee, and the principle cov- g them settled. It is for the occupancy of and damage to real estate he vicinity of Washington, D. C., during the war. The military orities took possession of claimant's land, about 26 acres, and occu- the dwelling-house for a time, and erected a temporary fort on the , cutting and using the timber for the same. In 1864 the house destroyed by order of Col. Lewis O. Morris, Seventh New York llery, the house being in a line with the guns of the fort, and it g considered a military necessity to remove it.

at this claimant was damaged by the war is very evident, and if gress could undertake to compensate this class of sufferers her n would doubtless be recognized.

ur committee feel constrained to follow the well-settled policy of gress in this class of cases, and therefore recommend that the peti- do lie upon the table.

I CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 602.

# ELEANOR T. BROOKBANKS AND OTHERS.

ARY 17, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

KLEINER, from the Committee on War Claims, submitted the following

## REPORT:

[To accompany bill H. R. 506.]

*Committee on War Claims, to whom was referred the bill (H. R. 506) r the relief of Eleanor T. Brookbanks, Joseph L. Brookbanks, Amos . Brookbanks, Reuben G. Brookbanks, and Mary E. Lee, heirs at law of euben M. Brookbanks, deceased, having considered the same and accomnying papers, respectfully report:*

euben M. Brookbanks, in the month of November, 1864, at the town ipton, in the then Eleventh Congressional district of Indiana, was ed into the military service of the United States pursuant to the f Congress approved March 3, 1863, "for enrolling and calling out ational forces." Immediately upon being so drafted he procured bstitute and paid said substitute for going into the military service e Government the sum of $850.

appears clearly from the evidence that said substitute was duly pted by the Government authorities as such substitute, was musd into the naval service of the United States as such substitute, and erved until the close of the war. But notwithstanding these facts said Reuben M. Brookbanks, after he had furnished said substitute, compelled, *under the same draft*, against his will, and over his protest, nter the military service of the United States, and serve until the day of February, 1865, at which time he was honorably discharged.

evidence clearly shows that the said Reuben M. Brookbanks was pelled to perform this service for the Government without any fault egligence on his part, but solely through the mistake or fraud of gents of the Government, and that he has never been repaid from ource any part of the said sum of $850 which he was compelled to nd in order to procure said substitute.

ur committee have no hesitation, under the facts, in recommending said claimants be allowed and paid the said sum of $850, and they dingly report in favor of the passage of the accompanying bill.

O

'TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 603.

# HEIRS OF JACOB CRAMER.

BRUARY 17, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

r. ST. MARTIN, from the Committee Private Land Claims, submitted the following

## REPORT:

[To accompany bill H. R. 3642.]

*ie Committee on Private Land Claims, to whom was referred the bill (H. R. 3642) for the relief of the heirs of Jacob Cramer, lieutenant of the Pennsylvania Continental Line in the Revolutionary war, submit the following report:*

That Jacob Cramer was a lieutenant of the Pennsylvania Continental ne in the Revolutionary war, and as such was entitled to a bounty- nd warrant for 200 acres of land; that such warrant was not issued him before his decease, and has not since been issued to his heirs legal representatives; that is to say, that such claim for services s never been satisfied or discharged. As evidence of the above the nmittee refers to (and make part of this report) the annexed commu- cations from the Commissioner of the General Land Office, Commis- ner of Pensions, and the secretary of internal affairs of the State of nnsylvania.

The committee therefore recommend that the bill do pass.

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DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
*Washington, D. C., February* 19, 1878.

SIR: I have the honor to acknowledge the receipt of a letter in your behalf, as sub- mittee of the Committee on Private Land Claims, House of Representatives, of 24th ultimo, from E. C. Boudinot, esq., clerk of said committee, inclosing House l No. 1523, "for the relief of the heirs of Jacob Cramer, lieutenant of the Penn- vania Continental Line in the Revolutionary war," and asking my views thereon.

I would state in reply that, from the examination given the case, I am fully satisfied at Jacob Cramer was a lieutenant of the Pennsylvania Continental Line in the war the Revolution; that his services entitled him or his heirs, under the bounty-land vs in force prior to June 26, 1858, to a land-warrant from the United States for 200 res of land, and that no such warrant has ever been issued.

It will be found in document No. 57, first session Twenty-eighth Congress, page 21, at, under date of January 10, 1844, the Commissioner of Pensions reports the said ut. Jacob Cramer as having acquired a right to lands from the United States ich had not then been applied for; and you will see from the accompanying letter said Commissioner, under date of the 13th instant, in reply to one from this office, at no warrant for such service has since been issued.

You will also perceive from the accompanying letter from the deputy secretary of ternal affairs of the State of Pennsylvania, of date the 5th instant, and in answer a communication from this office, that Jacob Cramer received a State bounty of 200

and it is the exclusive province of the honorable committee to consider and dec
same.

I ought to add, in conclusion, that, in my judgment, the reference in the mat
stead of having been made to this office, should have been to that of the Commi
of Pensions; but as my views were asked for, I have responded as above.

The various papers inclosed with the letter above referred to are herew
turned.

I am, very respectfully, your obedient servant,

J. A. WILLIAMSON,
*Commissi*

Hon. G. BOUCK,
*House of Representatives, Present.*

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DEPARTMENT OF THE INTERIOR, PENSION OFFICE,
*Washington, D. C , February* 13, 1

SIR: In reply to your communication of the 1st instant (herewith returned), I
the honor to inform you, after an examination of the files, that there is no record
issue of a bounty-land warrant for the services of Jacob Cramer, as lieutenant
Pennsylvania Continental Line, in the war of the Revolution.

It appears, from papers on file, that all records of warrants issued prior to th
1800 were destroyed in the conflagration of the War Office, in that year.

Very respectfully,

J. A. BENTLEY,
*Commissioner of Pen*

Honorable COMMISSIONER OF LANDS.

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COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF INTERNAL AFFAIRS,
*Harrisburg, February* 5, 1

DEAR SIR: In reply to your letter of the 2d instant, I would say that Jacob C
a lieutenant of the Pennsylvania Line in the Continental service, was awarded
of land containing 200 acres, situated in District No. 6, on the west side of th
ghany River, then in the county of Westmoreland. The lot is numbered 1093.
records do not show the length of the service of said Cramer.

I am, sir, truly, yours,

J. SIMPSON AFRICA,
*Deputy Secretary of Internal Aff*

Hon. J. A. Williamson

)NGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
'ession. } { No. 604.

# JOHN TAGGART.

r 17, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

.LIAM WARNER, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill H. R. 4115.]

*mittee on Claims, to whom was referred the bill* (H. R. 4115) *for ief of John Taggart, having considered the same, submit the fol- report:*

mmittee is satisfied that the claimant is a man whose statements led to credit. That on the 18th day of February, 1885, the claim- e the following affidavit:

MISSOURI,
*nty of Harrison, ss:*

he undersigned, a notary public within and for the county of Harrison and esaid, personally appeared John Taggart, of Bethany, Harrison County, Mis- l being by me first duly sworn, upon his oath states that in the year 1868 he inted postmaster for the office of Bolton, Harrison County, Missouri; that in 869, he removed to the town of Bethany, in said county, and left the office of a deputy; that the building in which said office was kept was destroyed the fall of 1870, and to the best of this affiant's knowledge and belief, the tents of said building, including the contents pertaining to said office, as general stock of dry-goods, were entirely destroyed; that afterward the e Dept. at Washington, D. C., claimed from this affiant a sum of thirty and s ($30.64) for stamps, which was paid to Wm. S. Conner, the postmaster at of Bolton, and for which the receipt is herewith presented; that the above $30.64) this affiant verily believes was received for stamps that were de- the burning of said building.

JOHN TAGGART.

bed and sworn to before me; and I certify that I am well acquainted with t, and that he is a highly respected citizen and all his statements are entitled th and credit.
ess whereof I hereunto set my hand and official seal this 18th day of Febru- 1883.
mission as notary public expires Jan'y 14, 1885.

WM. C. HEASTON,
*Notary Public.*

committee is of the opinion that the statements contained in going affidavit are true, and that the claimant should be granted f asked for.
laim was reported upon favorably by the Committee on Claims orty-eighth Congress (Report 1418).
committee recommend the passage of this bill.

O

■ CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 605.

# HT OF WAY OF THE MORRIS COUNTY RAILROAD COMANY THROUGH UNITED STATES LANDS NEAR DOVER, W JERSEY.

ARY 18, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

COBB, from the Committee on the Public Lands, submitted the following

## REPORT:

[To accompany bill H. R. 4584.]

he Committee on the Public Lands, to whom was referred the bill R. 4584) to grant the right of way for railroad purposes through lands of the United States powder depot near Dover, N. J., to the ris County Railroad, having had the bill under consideration, re- t the bill back to the House with the recommendation that it pass.

he right of way is granted by the bill through lands of the United tes, situated in Morris County, New Jersey, which were acquired by Government, and are now held as a depot for the permanent storage uch powder as it is thought best to keep on hand to supply the ls of our Eastern coast. Powder deteriorates so rapidly under the uence of sea air that it has been found necessary, in the interests economy, to keep all permanent supplies at an inland station like . The tract is well situated for the purpose. It is a rough piece and of about 1,500 acres, and is being gradually molded to the poses for which it was bought. The only inconvenience of any conuence has been the lack of railway communication, the nearest point ng at Dover, some 4 miles distant. The War Department has enraged all enterprises that seemed to look in the direction of supply- the want.

In 1882 the Central Railroad Company of New Jersey determined to ild a spur, which should pass through the grounds, and Congress mptly passed a bill granting it the right of way. The bill was apved July 31, 1882. Unfortunately, disaster almost immediately over- k the management of the Central Road and the purpose was abaned. Not wishing, however, to interfere with a project so useful to Government and the neighborhood, the president of the Central lroad Company, who was also its receiver, filed, September 22, 1882, Maj. F. H. Parker, U. S. Army, then in charge of the powder de- the consent of his company to waive all its rights in the premises, the War Department," President Little wrote, "can secure the build- of the railroad to the powder depot in any other way."

ubsequently the Morris County Railroad Company, having been inporated for the purpose of building a railway which should connect New York, Susquehanna and Western Railroad Company with the laware, Lackawanna and Western Railroad Company, and which, making this connection, would naturally cross the grounds of the

powder depot, H. S. Little, president of the Central Railroa pany, under the date of December 23, 1885, made in writing, ad to Maj. J. P. Farley, who is now in charge of the powder formal waiver.

The Morris County Railroad Company seems to be a respo ganization, with abundant means, and is wanting only the pe to cross the Government's lands before immediately constru road.

The committee think that the right of way ought to be g the Morris County Railroad Company under such safeguards a provides. The War Department selects and locates the line w railway shall cross, and it is to control the stoppage of trains ceive such facilities as it requires.

If the railway is not constructed or not operated the rigt granted reverts to the United States, and Congress in terms the right to repeal, alter, or amend the act.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 606.

# TWO ADDITIONAL LAND OFFICES IN NEBRASKA.

FEBRUARY 18, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. LAFFOON, from the Committee on the Public Lands, submitted the following

## REPORT:

[To accompany bill H. R. 5873.]

*The Committee on the Public Lands, to whom was referred the bill (H. R. 1448) to establish and create two land districts in the State of Nebraska, beg leave to submit the following report:*

The object of the bill is to divide the Minnechadusa land district and create out of the western half thereof a land district to be called the northwest land district; and to divide the North Platte land district, and to create out of the western half the Sidney land district.

In both of the above-named districts the settlement has increased so rapidly that the local offices cannot comply with the demands upon them. As present constituted, the two existing districts are about 225 miles in length, from east to west, and about 75 miles in width from north to south. The present bill dividing them on a line from north to south, gives to each district, as nearly as can be estimated, about an equal amount of agricultural land. The settlers in the western portion of the proposed districts have sent petitions to Congress urging the passage of the bill, claiming rightfully that it will be of great benefit in settling that section of the State, and the offices being nearer the land settled upon will tend to prevent frauds. The Commissioner of the General Land Office and the Secretary of the Interior both favor the proposed bill.

Your committee recommend the passage of the substitute for House bill 1448.

RESS, } HOUSE OF REPRESENTATIVES. { REPORT
on. } { No. 607.

# PH LINE FROM MISSOURI RIVER TO THE PACIFIC OCEAN.

18, 1886.—Referred to the House Calendar and ordered to be printed.

from the Committee on Pacific Railroads, submitted the following

## REPORT:

[To accompany bill H. R. 5874.]

mittee on Pacific Railroads, to whom was referred House , 1410, and 378, have had the same under consideration, and report the same back, with a recommendation that they lie ), and that the bill in lieu thereof, herewith submitted, be d the committee submit the following report thereon:

ose of the bill submitted is to compel the railroad companies ıts of land under the acts of Congress, approved July 1, 1862, 1864 (commonly known as the Pacific Railroad acts), to Jnited States the amounts of money that have been paid out veying the lands to which said companies are entitled. This been frequently before the Congress, and bills making this t were favorably reported both in the Forty-seventh and h Congresses. The report made to the latter we adopt. It ı:

*on Pacific Railroads, to whom was referred the bill (H. R. 35) to compel the he Kansas Pacific Railway Company of the costs of surveying, selecting, and rtain lands granted to it, and the bill (H. R. 934) to compel the payment by acific Railway Company of the costs of surveying, selecting, and conveying ı granted to it, and the bill (H. R. 507) to provide for the payment of the costs and selecting certain lands granted by Congress to aid in the construction of ıay and telegraph lines, and the bill (H. R. 3562) to compel the payment by ıay companies of the cost of surveying, selecting, and conveying lands granted ıe United States, &c., have had the same under consideration, and, after an of the questions involved, respectfully report as follows:*

ıf Congress, approved July 1, 1862, entitled "An act to aid in the conrailroad and telegraph line from the Missouri River to the Pacific Ocean, to the Government the use of the same for postal, military, and other tain railways, hereinafter named, became entitled upon the comple- ) (afterwards reduced to 20) miles of their roads to the subsidy menact, which subsidy consisted of lands and United States bonds. That no provision as to who should pay the costs of the survey, location, and the lands to which the companies might become entitled thereunder. Congress approved July 2, 1864, this omission was supplied, the twenty- which act is as follows:

re any land granted by this act shall be conveyed to any company or party to under this act there shall first be paid into the Treasury of the United ts of surveying, selecting, and conveying the same by the said company terest as the titles shall be required by said company, which amount

shall, without any further appropriation stand to the credit of the proper account to be used by the Commissioner of the General Land Office for the prosecution of the survey of the public lands along the line of said road, and so from year to year until the whole shall be completed, as provided under the provisions of this act."

The power of Congress thus to amend the act of 1862 has been determined by the Supreme Court of the United States, and is not *now* questioned by the railroad companies. The corporations or companies taking grants of land under the act of 1862 and acts amendatory thereof and supplemental thereto are as follows:

Union Pacific Railway Company.

Union Pacific Railway Company, successor to the Kansas Pacific Railway Company.

Union Pacific Railway Company, successor to the Denver Pacific Railway Company.

Central Branch Union Pacific Railway Company.

Central Pacific Railway Company.

Central Pacific Railway Company, successor to the Western Pacific Railway Company.

Burlington and Missouri River Railroad Company in Nebraska; and

Sioux City and Pacific Railroad Company.

Your committee have sought to ascertain exactly how much land each of these companies are entitled to patent under the acts incorporating them, and the precise amount they will be required to pay into the United States Treasury for surveying, selecting, and conveying the same, but have been unable to do so. In response to an application by your committee, the Commissioner of the Land Office furnishes us the following statement on this subject:

"In my opinion an estimate sufficient for the committee's purpose can be obtained by computing the full amount which the companies could acquire in case none of the granted lands had been disposed of prior to the time their rights attached. The rate per acre for surveying may be fixed at the average rate paid by each company upon lands already selected. Such an estimate, while merely approximating the costs which the companies will ultimately be required to pay will, it is believed, exceed that amount in each instance. Upon this basis the grant to the Union Pacific Railway Company is estimated at 13,222,400 acres. Said company has selected 2,006,827 acres, and paid $45,086.23 as the costs of surveying the same. There remains of the grant 11,215,573 acres unselected, the costs of surveying which is estimated at $377,661.95. Said company has received patents for 1,954,603.08 acres. The grant to the central branch of the Union Pacific, making allowance for overlapping limits of the Kansas Pacific, is estimated at 1,160,000 acres; 265,244 acres have been selected, and $5,188.13 paid as costs of survey thereon. The balance of the grant is estimated at 894,756 acres, the costs of survey of which amounts to $17,501.42. Patents have issued for 187,447.99 acres.

"The grant to the Kansas Pacific is estimated at 6,000,000 acres; 1,483,067 acres have been selected, and $29,841.71 paid as costs of surveying the same. The remainder of the grant is estimated at 4,516,933 acres, and the costs of surveying the same at $128,826. Said company has received patents for 963,714.03 acres.

"The grant to the Central Pacific Company is estimated at 9,248,200 acres (allowance being made for area of Great Salt Lake, in Utah, falling in the limits of the grant). The company has selected 884,976 acres and paid $48,235.69 for survey thereof. This leaves a balance of 8,363,224 acres, the costs of surveying which is estimated at $417,233.91; 780,879.40 acres have been patented to said company.

"The area of the grant to the Western Pacific is estimated at 1,576,448 acres; 444,466 acres have been selected, and $17,220.72 paid for surveying the same. The remainder of the grant amounts to 1,131,982 acres, and the cost of surveying the same is estimated at $43,807.70. Under this grant patents have issued for 446,230.65 acres.

"The area of the grant to the Denver Pacific Company is estimated at 1,024,000 acres, allowance being made for overlapping limits of the Union Pacific grant; 183,424 acres have been selected and the cost of surveying, amounting to $7,661.78, paid. The remainder of said grant is 840,576 acres, and the cost of surveying the same is estimated at $36,144.79; 164,721.51 acres have been patented under this grant.

"The Burlington and Missouri River Railroad Company in Nebraska has selected 2,378,556 acres, and paid $50,515.79 for survey thereof. Patents have issued for 2,373,290.77 acres. Without undertaking to decide now that this grant is fully satisfied, it is believed by this office that said company will receive but little, if any, more land.

"The Sioux City and Pacific Company has received patents for 41,398.23 acres, upon which the costs of survey, amounting to $680.13, has been paid on account of overlapping limits of other and older grants. It is believed that with the exception of a few isolated tracts the amount patented to this company, as above stated, is all the land inuring to this grant."

From this statement it appears that the total sum the various roads would be required to pay into the Treasury to patent all the lands they have earned under the law would be $1,021,175.77. In order to determine what part of this sum has been

already paid out by the United States it is necessary to ascertain what part of the subsidy lands have been surveyed, and we present an estimate furnished us from the Land Office on this subject:

| Name of road. | Estimated area of grant. | Estimated area surveyed. | Estimated area unsurveyed. |
|---|---|---|---|
| | *Acres.* | *Acres.* | *Acres.* |
| Union Pacific—Omaha to Ogden | 13, 222, 400 | 12, 104, 960 | 1, 117, 440 |
| Burlington and Missouri River | 2, 310, 912 | 2, 310, 912 | ..... |
| Central Branch Union Pacific | 1, 160, 000 | 1, 160, 000 | ..... |
| Kansas Pacific | 6, 000, 000 | 6, 000, 000 | ..... |
| Denver Pacific | 1, 024, 000 | 1, 024, 000 | ..... |
| Central Pacific—Ogden to Sacramento | 9, 248, 200 | 4, 467, 500 | 4, 780, 700 |
| Central Pacific, successor to Western Pacific | 1, 576, 448 | 1, 288, 448 | *288, 000 |
| Sioux City and Pacific | 651, 328 | 651, 328 | ..... |
| Totals | 35, 193, 288 | 29, 007, 148 | 6, 186, 140 |

* Nearly all swamp and overflowed, according to maps.

By the above figures it will be seen that about six-sevenths of the whole has been surveyed.

OSCAR HINRICHS,
*Principal Clerk Surveys.*

It will thus be seen that six-sevenths of the land now due these railroads has been surveyed, and that the United States has actually paid out for their benefit about the sum of $875,293.50.

The object of the bills referred to this committee by the House is to compel these various railroad companies to reimburse the United States the amount which has been by it paid out for their benefit, and take title or patents to the lands they have earned and are now entitled to patent. The railroads, while admitting that under the law they are required to pay to the United States the cost of surveying, selecting, and conveying said lands, contend that the language "as title shall be required by said company," which is contained in section 21 of the amendatory act of 1864, hereinbefore copied, gives them the option of determining when they shall pay said costs and accept patents to the land earned by them.

A similar bill to House bills Nos. 934 and 35, now referred to your committee, was introduced in the Forty-seventh Congress, referred to the Committee on Pacific Railroads, and was by that committee reported favorably to the House. In that report, submitted by Mr. Butterworth, the committee discuss the claim of the railroad as then and now set up, and their reasoning on that subject is so satisfactory that we adopt the same and incorporate it in this report.

"The condition of the grant was that the company should build and equip a first-class railroad and telegraph line, subject to the approval of the President of the United States.

"In order that the company might receive its subsidies during the progress of the work, section 4 of the act of 1862, amended by section 6, act of 1864, provided that the road might be built in links or sections of 20 consecutive miles each; that upon the completion of such a section the work should be inspected by three commissioners appointed by and acting for the President, and that his approval of their certificate should fix the time or date when the lands adjacent to such section, and also the bonds for 20 miles of road, should be delivered to the company. The language of section 4, condensed, is:

"'*Whenever* it shall *appear* to the President that 20 consecutive miles of said railroad have been completed as required, *then*, upon certificate of said commissioners to that effect, *patents shall issue conveying the right and title to said lands to said company* on each side of the road as far as the same is completed; and patents shall in like manner issue as each successive 20 miles of said road are completed *upon certificate* of said commissioners.'

"Viewing the law as a contract, the Government and the company being the respective parties thereto, there can be no question that this provision as to the dates when payment should be made and accepted for work performed is mandatory upon both parties.

"In the act of 1862 no provision was made touching the question whether the Government or the company should bear the expense of surveying and conveying the lands granted. When the amendatory act of July 2, 1864, was under consideration in the Senate, Mr. Harlan, of Iowa, offered an amendment, which is substantially the present section 21 of 1864, and said:

* * * "'The object of this amendment is that the companies shall pay for the survey of their own land; that is, of the land that is to be granted to them under this

bill. This has become almost necessary, as it seems to me. The entire receipts from the land system do not now more than pay the expenses of the system. The adoption of this bill will very greatly enlarge the work of the office here and the work in the field; and it seems to me that those who are to derive an advantage from the grant ought to pay at least for the survey of the land.'

"The amendment to the amendment was agreed to. (Congressional Globe, first session Thirty eighth Congress, volume 52, page 2403.)

"Section 21 was in perfect accord with the object of requiring the company to pay the costs of survey and conveyance. As already stated, the act of 1862 fixed the acceptance by the President of a 20-mile section of road as the 'time when' the lands and bonds should be delivered to the company. The idea that a contractor would not accept pay due for work performed never occurred to Congress, the same being contrary to the uniform practice of contractors. The act of 1864 clearly proceeds on the theory that the company would accept patents to the lands which it had earned by the construction of a section of road, precisely as it did the bonds so earned. Section 21 accordingly provides that the company should pay the costs of survey and conveyance; that the sums thus received by the United States should, 'without further appropriation,' constitute a fund to be used by the Commissioner of the General Land Office 'for the prosecution of the survey of the public lands along the line of said road,' and beyond that portion of the road which was completed. As the lands adjacent to a 20-mile section of road were to be patented to the company upon the completion of such section it was necessary that the Commissioner should have completed the public survey before such date. It was fully presumed that the company would then pay the costs of surveying, selecting, and conveying these adjacent lands, and with the funds thus received the Commissioner was to continue the survey, 'and so from year to year until the whole shall be completed.'

"Hence the broad purpose of section 21 was to enable the Government to complete the survey of the granted lands at the least outlay of its own money, by using the funds received from the company therefor during the building of the sections of road. It certainly contemplated that these costs would be paid by the company as each succeeding section of road was accepted by the President, and that the whole of the costs would have been paid when the whole road was finally accepted. The full text of section 21 establishes this proposition. It in effect provides that after a 20-mile section of road shall have been completed, but before the land adjacent thereto shall be conveyed to the company, such company shall first pay to the United States the costs of surveying and conveying the same, and that moneys so received shall stand to the credit of the Commissioner of Lands:

"'SEC. 21. (XIII, 365.) That before any land granted by this act shall be conveyed to any company or party entitled thereto under this act, there shall first be paid into the Treasury of the United States the cost of surveying, selecting, and conveying the same, by the said company or party in interest, as the titles shall be required by said company, which amount shall, without any further appropriation, stand to the credit of the proper account, to be used by the Commissioner of the General Land Office for the prosecution of the survey of the public lands along the line of said road, and so from year to year until the whole shall be completed, as provided under the provisions of this act.

"'SEC. 22. That Congress may at any time alter, amend, or repeal this act.'

"The plea made by the company, through its attorney, is that the clause 'as the titles shall be required by the company' gives it an absolute option as to the time when it shall pay these costs and accept patent to the land. This construction we cannot accept; section 21 of 1864 in nowise changes the act of 1862. Had not the clause 'as the titles shall be required by the company' appeared in the section the company would have been debarred from receiving patent to any of the land until the whole road had been accepted by the President, because the law would then have read 'that before *any* land granted by *this act* shall be conveyed the company shall first pay the cost of surveying and conveying the *same*;' that is, 'the land granted by this act,' the whole of it. And the clause 'as the titles shall be required' was inserted to enable the company to receive patent to the adjacent land upon completing a 20-mile section of road.

"If the construction contended for by the company be correct, it may never pay the costs of survey, and may never take patent to the lands. And, as a legal question, your committee are clear in the opinion that these costs were made due and payable by the acceptance of a 20-mile section of road; that all the costs were payable October 22, 1272, when the whole road was finally accepted; that, viewing the law as a contract, the company was bound to pay these costs at the dates thus indicated, and that in failing so to do it has failed to fulfill one of the essential terms of the contract, and should be regarded and dealt with by Congress as a delinquent to the extent of such failure."

Your committee are of the opinion that the accounts between the various Pacific railway companies and the United States on the subject of the subsidies of land should

be adjusted and settled; that as early after the land is earned by the company as possible it should be surveyed by the United States, and that as early as practicable thereafter the companies should reimburse the United States the amount thus expended and the cost of selecting and conveying, and take a patent to the lands. The course now pursued of paying out money from the common Treasury for the survey of these lands, and then awaiting the pleasure of the companies as to when they shall accept patents and pay to the United States the sums thus paid out, was not contemplated by the acts of Congress on that subject, works injustice in many ways, and should not longer be continued.

Your committee, after careful consideration of the questions involved, recommend the passage of the accompanying bill as a substitute for the bills referred.

The following letter shows the amount of land that has been surveyed, selected, and patented since the estimate made in foregoing report:

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
*Washington, D. C., February* 13, 1886.

SIR: In response to your verbal request of 9th instant, for further information in connection with report of this office, February 5, 1884, to the honorable Secretary of the Interior, which is embodied in printed report No. 478, House of Representatives, Forty-eighth Congress, first session (herewith returned), I present the following statement, embracing railroad selections made under the acts of July 1, 1862, and July 2, 1864, from February 5, 1884, to date; also the amount paid on account of surveys, the number of acres patented, and the additional surveys for same period:

| Name of road. | Amount selected. | Amount paid for surveys. | Patented. |
|---|---|---|---|
| | *Acres.* | | *Acres.* |
| Union Pacific | 314,224.83 | $7,163 61 | 634,130.60 |
| Central Branch Union Pacific | 440.00 | 8 84 | None. |
| Kansas Pacific | 295,008.97 | 6,039 14 | None. |
| Denver Pacific | 45,623.56 | 1,946 72 | None. |
| Central Pacific | 355,571.75 | 15,921 72 | 140,707.57 |
| Western Pacific | 3,921.18 | 176 45 | None. |
| Burlington and Missouri River | None. | None. | None. |
| Sioux and Pacific | 1,617.79 | None. | None. |

Estimated as additional area surveyed for the following railroads:

| | Acres. |
|---|---|
| Union Pacific | 679,680 |
| Central Pacific | 161,280 |

Very respectfully,

S. M. STOCKSLAGER,
*Assistant Commissioner.*

Hon. C. F. CRISP,
*House of Representatives.*

The Supreme Court of the United States (Prescott's Case, 16 Wall. p. 603), in passing upon the acts named in the bill reported, held that these lands could not be taxed, the title thereto being still in the Government. This leaves the lands to be used and speculated on by the railroad companies until they see fit to pay the costs and perfect title, the States and Territories in which they lie in the mean time deriving no revenue therefrom to meet these difficulties pending the delay that may occur before the collection of the costs. The bill reported contains a provision that after the lands have been surveyed by the Government, they will be subject to all legal taxes imposed by the States and Territories in which they are situate to the same extent they would have been if such costs were paid and the lands actually conveyed. In any tax sale under this bill the United States preserves her first lien on the lands for all proper costs, fees, &c.; and when a patent issues upon

any tax sale, it operates only as an evidence of the tax title, title shall be subject and subordinate to all the rights of the ment in respect of the subsidy bonds issued by it in aid of struction of such roads, and these facts and reservations are to be stated in such patents.

In the opinion of your committee the adoption of the bill s will relieve the difficulties now existing without doing injust one; therefore your committee recommend its passage.

: CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
t Session. } { No. 608.

# WILLIAM BRIDGES, JR.

RUARY 1?, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

HAYNES, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4389.]

*Committee on Invalid Pensions, to whom was referred House bill* 4389, *beg leave to submit the following report:*

'illiam Bridges, jr., was a private in Company I, Twelfth Vermont iment. His claim for pension was based on chronic diarrhea and llen legs and feet from the use unguentum. It was rejected on the and that claimant cannot furnish medical evidence of existence of er of the alleged disabilities in the service or at date of discharge, that medical examination shows no present disability.

n claimant's declaration he alleges that at Wolf Run Shoals, Virginia, nt April 2, 1863, his blood became poisoned and his limbs, feet, and er portions of the body became swollen from the use of unguentum the extermination of body-lice and the cure of Virginia itch, proing disease which has continued ever since and been pronounced by ny physicians incurable.

he Adjutant-General United States Army reports no evidence of al-ed disabilities; regimental hospital records or company morning re-ts are not on file.

everal comrades testify as to incurrence in service.

eorge E. Dimick, of Lawrence, Mass., captain of claimant's com-y, testifies that at Wolf Run Shoals, about the 1st of April, 1863, mant was troubled with swollen feet, and was often excused from on that account; was obliged to wear the largest-sized army shoes, did but little duty from April to July, 1863.

orenzo B. Howe testifies that claimant was detailed by Captain nick to take care of him, as a nurse, on March 30, 1863; that while s engaged, April 2, 1863, his feet and ankles became so inflamed l swollen that he could not get his No. 8 boots on, and so obtained air No. 10 army shoes; that he remained with affiant about ten days, en he was excused from duty by his captain. Affiant saw no more claimant until he met him at Brattleborough, Vt., when they were on ir way home to be mustered out of the service, when, and at the time his discharge, his feet were still swollen, and his legs covered with ning sores, which affiant believes to have been caused by the use of guentum for the extermination of body-lice and Virginia itch. Affiant o testifies to claimant's contracting diarrhea soon after this inflamtion appeared.

John M. McQuade testifies that in the winter of 1862–'63 claimant was ordered by the surgeon to use unguentum, and that he soon afterwards contracted a violent cold while on duty, which caused his feet and legs to swell so badly that he was excused from duty a portion of the time, and was obliged to wear a larger pair of army shoes.

David F. Faulkner, a comrade, testifies in the same line.

Dr. Granville P. Conn, late surgeon of the claimant's regiment, in a letter to claimant says it would be next to impossible for him to give an affidavit that would be of service, as his records were turned over to the War Department, and he does not recollect the case.

The prior soundness of claimant is certified by John H. Austin, who has been acquainted with him for thirty-four years, and until the spring of 1869, resided within 40 rods of him; by Dr. D. Campbell, who was well acquainted with claimant before his enlistment, and was his family physician; by Nathan T. Sherwin, who has known claimant intimately as a neighbor, since 1846; and by Frederick T. Dunham, all of whom considered him a hardy, healthy man until his enlistment.

A large number of witnesses, including three physicians, testify to soldier's being afflicted with a cutaneous affection of the lower limbs, and with chronic diarrhea, this testimony covering the time from his discharge to the present. Two medical examinations have been had under orders of the Department. The Bellows Falls, Vt., board, on November 1st, 1882, found a disability, "probably permanent," which they describe as follows:

> We find the left leg eczemetous; red and scaly; both legs are slightly eczemetous, putting on pressure; veins of left leg varicose in a moderate degree; claims "blood-poisoning from unguentum used in army to kill lice." Thin and spare man; no ulcers on legs. Capillary and veinous circulation of legs enfeebled. Dr. Pettengill has long known his habits were intemperate. If his disability, swollen limbs, and resulting eczema, originated in the service, we would rate at three-eighths of total.

Per contra, on June 9, 1883, the Keene, N. H., board reports:

> We find nothing to substantiate claims. There is no present disability. Tongue normal; abdomen and its contents healthy, and likewise thoracic viscera.

In this disagreement of doctors upon a case otherwise so well established by evidence which the Department ascertains to be uniformly from credible witnesses, we think his claim should be allowed, subject to finding of future medical examination, and recommend the passage of the bill.

CONGRESS, Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 609.

# ANSYL POTTER.

FEBRUARY 18, 1886.—Laid on the table and ordered to be printed.

HAYNES, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 3461.]

*Committee on Invalid Pensions, to whom was referred House bill* 3461, *beg leave to submit the following report:*

ısyl Potter, the beneficiary named in this bill, has for two years in receipt of a pension as dependent father of Ansyl Potter, late ıte of Company F, Fourteenth Regiment Maine Volunteers. There nsequently no occasion for the passage of this bill. We accord- report it back to the House with a recommendation that it lie the table.

though not called upon to decide a question which does not arise ınsidering this bill as presented to us, we consider it judicious to e the following statement, which may save future proceedings d on a misunderstanding.

appears that Mary Potter, mother of the soldier, and wife of this nant, was first pensioned on account of her said son, which pension suspended September 4, 1869, and was not restored until after her h, which occurred May 28, 1883. Her husband, this claimant, was ted a pension to date from December 6, 1883, and filed a claim, h was rejected by the Pension Office, for the amount of the wife's ion from the date when she was dropped. We presume claimant have intended to present to Congress a claim for these arrears, and l suffice for this committee to state in this connection that its in- ıle rule is against the granting of arrears, and if the bill had been ınted in that form it must have been adversely reported.

TH CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
1st Session. } { No. 610.

# NOAH B. BROOKSHIRE.

RUARY 18, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

O'HARA, from the Committee on Invalid Pensions, submitted the following

## REPORT

[To accompany bill H. R. 4644.]

*Committee on Invalid Pensions, to whom was referred the bill (H. R. 644) granting a pension to Noah B. Brookshire, having had the same nder consideration, submit the following report:*

'he claimant, Noah B. Brookshire, enlisted in Company B, Third giment North Carolina Cavalry, on the 6th of October, 1864. Sick h bilious fever, February, 1865, was sent to the Asylum Hospital, oxville, Tenn., and there treated for bilious fever; hospital data oborates statement of treatment as made by claimant. A number itnesses testify under oath that claimant was a sound and healthy prior to his enlistment in said regiment. The conclusions arrived y Thomas S. Smythe, the special examiner of the Pension Office, es the case in such a clear manner that it is made a part of this rt:

investigation of this case was very tedious and laborious, the witnesses scat- over a large extent of country, thus involving a large amount of travel. I was panied by claimant. Some of the witnesses examined are relatives of claimant. seemed to be unavoidable, as nearly all the citizens in his old neighborhood d to be related in some way or other to him, but, so far as I was able to judge, itnesses intended and desired to tell the truth; none of them seemed to have undue bias either for or against the claimant. From the evidence I make the ing deduction:

It is certainly established that claimant at the time of his enlistment was sound ree from any disability.

That while in the service he contracted fever.

That at the time of his discharge, or at least on his return home in 1865, he was ing from the effects thereof in some degree. It is true that from 1865 to 1868 the was not altogether as it might be, and the extent of claimant's disability defined early as the examiner could wish, yet when all the facts and circumstances are n together, it seems that the only fair inference is that claimant returned home led and so remained up to 1868, and from that time to the present, if Dr. Council be believed, there can be no question as to his disability; in this connection I state that Dr. Council is regarded as a man of standing, a reputable physician, truthful; in fact no man in the community stands any better. Having patiently stigated the claim, and after weighing and considering all the testimony, I am pelled to recommend that the claim be admitted.

'r. W. B. Council states under oath—

hat he carefully examined said claimant and found him suffering from a pain in left side which, in my opinion, is the result of severe attack of bilious fever he had ng his service in the United States Army. The pathology of the case is, that after attack of fever and exposure to cold, the disease settled on the pleura in the left

side. I attended the said claimant several years ago, I think in 1868, in a case of typhoid fever, and he then had this pain in the left side, and had had ever since his discharge from the Army, so he stated to me; and this was long before he ever thought of applying for a pension. I am satisfied from the history of the case and from my knowledge and long acquaintance with said claimant that the pain in his left side was caused as above stated, and while in the service of the United States.

E. M. Phillips, M. D., examining surgeon, in his official report in the record, states:

I find in the above case that Mr. Brookshire was sick in the hospital at Knoxville, Tenn., four weeks with "typhoid or bilious fever," during the late rebellion. Since then his health has not been at all good. He suffers with an enlarged spleen and engorged liver, especially felt in the left hypochondria. He has painful and burning urination, suffers greatly from pain in lumbar region, and in my opinion is the result of fever, treatment, and war privation. I know the gentleman well, and know him to be a man of good character, and suffers as alleged and stated as above. He is a man void of vicious habits.

The claimant is rated at three-fourths incapacitated for obtaining his subsistence by manual labor.

In view of the testimony, both lay and professional, your committee is of the opinion that the disability complained of by claimant was contracted while in the service and in the line of duty, and therefore recommend that the bill do pass.

ᴇ CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
: ᴛ Session. } { No. 611.

# WILLIAM TURVILLE.

RUARY 18, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

. O'HARA, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 1275.]

*e Committee on Invalid Pensions, to whom was referred the bill (H. R. 275) granting a pension to William Turville, having had the same nder consideration, submit the following report:*

he claimant, William Turville, enlisted August 22, 1864, as a private Company H, Fifth Regiment Wisconsin Volunteers, and was dis-rged June 20, 1865.

Claimant's application for a pension was rejected by the Pension Office cause the records show no treatment for any disease or disability in y of the hospitals during his time of enlistment. This is not claimed claimant; but, on the contrary, his services were in the front at all nes, and where the battle raged fiercest he found his post of duty. He at present, and has been since a few days after his discharge, a great fferer from a growing dementia, which at this date compels some one watch over and provide for him.

Of his services in the late war his mind is almost a blank, except the e fact that a comrade whom he loved, and who stood beside him in e fearful charge before Petersburg on that fatal 26th day of April, 5, was killed by the enemy. This event he still broods over with a ching melancholy, oblivious or forgetful of the other great and dread-events of those days. Did his honorable discharge not show that mant was present and engaged in the heroic battles of Fort Fisher, rch 25, 1865; Sailor Creek, April 6, 1865, and the charge before Peters-g, April 26, 1865, his friends would not have known it from him, o nobly discharged his duty on these memorable days of our nation's tory.

On a few days after his return from the Army, and in his first en-vor to pursue his former avocation in the walks of civil life, his fam-and friends at once discovered that not only had the physicial man fered greatly from the terrible ordeal through which he, with thou-nds of other brave hearts, had passed, but that the intellectual man d suffered even greater injury. He was, and to-day is, the victim of mentia, brought about by the hardships and privations endured in e fierce conflicts in which he was no idle spectator, but an active par-ipant.

That he was a healthy and sound man prior to and at the time of his listment there is and can be no doubt; that his mind became affected,

preventing him earning a livelihood for himself and family, cannot be questioned, and that this disability was acquired in the service of his country, in defense of her honor and in the line of duty, is apparent.

John Bickford, a reputable citizen of Minnesota, states under oath:

> That he has lived near claimant for thirty years; has known him very intimately, except during the time he was in the service. At the time of his enlistment he was a man of first-class physical and mental ability, and upon his return home, after being discharged, I at once saw he was a wreck of his former self. He was broken down physically, and showed that he was much impaired mentally, being unable to remember or tell of his Army experience sufficient to give any intelligent account thereof, not even being able to remember the battles he was engaged in; and he has, to my personal knowledge, never shown any signs of recuperating, but, to the contrary, has constantly grown worse each year, and for several years he has been unable even to support himself.

Hon. Knute Nelson, a member of this Congress, says, that from his knowledge of applicant's condition, he believes him to have incurred his disabilities while in the service and in the line of duty. The examining surgeon rates his disability as one-half total rating.

Your committee, from the fact that claimant was engaged in three battles where heavy ordnance was called in use, and where the probabilities and possibilities are such that claimant might have received such severe mental and physical strain as to result in the impairment of his intellect and develop in dementia, deem it but just and right that the relief asked for should be granted; therefore recommend the passage of the bill, with the following amendment: after the word "infantry," in line 7, add the words "and that the pension be paid his legally constituted guardian."

O

CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 612.

# NAVIGATION AND CUSTOMS COLLECTION LAWS.

RUARY 18, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

FARQUHAR, from the Committee on Printing, submitted the following

## REPORT:

[To accompany House Concurrent Resolution.]

he Committee on Printing, to whom was referred the accompanying current resolution, providing for the printing of 5,000 copies of the igation and customs collection laws, relating to vessels, &c., com-ed by the Bureau of Navigation in the Treasury Department, hav-duly considered the same, respectfully report the same back to the use and recommend its passage.

The committee are informed that these laws have never been printed a separate form, as have the laws relating to the postal service, the ernal-revenue laws, the pension laws, &c.; and members of both ses find it difficult to ascertain the status of the statutes relating to merchant marine without a careful and laborious search through the islation of many years. As the Bureau of Navigation has recently piled these laws, it is very desirable that the compilation should be ted.

he estimated cost of printing and binding the above is $3,593 50.

C

CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 613.

# PUBLIC BUILDING AT LOGANSPORT, IND.

RUARY 18, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

DIBBLE, from the Committee on Public Buildings and Grounds, submitted the following

## REPORT:

[To accompany bill H. R. 5875.]

*e Committee on Public Buildings and Grounds, to whom was referred the bill (H. R. 465) to provide for the purchase of grounds and the erection of buildings for the post-office and for other uses for the United States, t Logansport, Ind., submit the following report:*

Logansport is situated at the junction of the Eel and Wabash Rivers, d ranks fourth to Indianapolis in population and commercial importnce. Next to Indianapolis, which is the railroad city of the nation, ogansport is second in the State, and is the terminus of two important ilroad lines. It has a population of 16,400, and is rapidly increasing. It is situated in the belt of the most densely populated portion of the ate, and yet within a radius of 75 miles there is no Government building or improvement of any kind whatever. It is a growing manufacting center, its wood manufactories are shipped to all parts of the orld, and its locomotive and car works are operated on an extensive le. It has had for nearly twenty years a board of pension examiners, puty internal revenue collector, gauger, and United States commisner. The present post-office accommodations are wholly inadequate the demands.

In view of the foregoing facts, your committee are of the opinion that public building should be erected at Logansport, and therefore recomend the passage of a substitute for said bill, which is herewith subitted.

H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 614.

# PUBLIC BUILDING AT SAN ANTONIO, TEX.

BRUARY 18, 1886.—Committed to the Committee of the Whole House on the state of the Union, and ordered to be printed.

. DIBBLE, from the Committee on Public Buildings and Grounds, submitted the following

## REPORT:

[To accompany bill S. 44.]

*e Committee on Public Buildings and Grounds, to whom was referred he bill (S. 44) to provide for a public building at San Antonio, Tex., ubmit the following report:*

A bill similar to the present measure passed the Senate of the Forty-hth Congress at its first session, and one of like character was favor-ly reported to the House about the same time, but, from some cause known to the committee, was not called up in the House.

San Antonio, according to the census taken by the city authorities scholastic purposes, about a year since, had then a population of re than 39,000. This population is rapidly growing, and shows an rease over the census taken in 1880 of near 20,000. The assessment ls of the city for the year 1885 show the valuation of the property, hin the city limits, to be $15,075,054 subject to taxation, being an rease of $6,638,498 over the assessment of 1880.

Two long lines of railway—the one connecting Saint Louis, Mo., and redo, Tex., and forming direct connection with Monterey and Saltillo, xico; the other known as the Southern Pacific and connecting New leans, La., with the Pacific coast—intersect each other at this place, d a third railroad is now being rapidly built from San Antonio to Ar-sas Pass on the Gulf of Mexico, to be afterwards extended to the rthwest.

The business of the city is rapidly accumulating, and each year adds gely not only to its population but also to its taxable property. San tonio is well supplied with a good system of street railways, and is e headquarters of the Military Department of Texas, with quarter-ster, commissary, and ordnance stores for general distribution, and a st is being built to accommodate twelve companies of troops. The nited States circuit and district courts are also held at this place.

The excess of the receipts over the expenditures of the post office r the year ending November 15, 1885, was $19,573.70; the number f money-orders and postal notes issued was 14,449, and covered the mount of $212,506.81; and the number of money-orders and postal otes paid was 20,177, and covered the amount of $366,700.85; the num-er of post-offices depositing surplus money-order funds at San Anto-io is 26.

The circuit and district courts of the United States were established

at San Antonio on the 24th day of February, 1879, and the first civil business filed therein was on the 9th day of August, 1879, and from that date until November 25, 1885, there were instituted in said courts 779 criminal and 331 civil cases, and there were pending on the day last mentioned in said courts 101 criminal cases and 54 civil cases. The territorial jurisdiction of said courts embrace 37 counties, containing a population of not less than 300,000, and embracing an area of at least 35,000 square miles.

The Government pays an annual rent of $2,500 for the use of such buildings as are necessary for court-house and post-office purposes. The courts and the post office occupy separate buildings. These buildings are very insecure, and are subject to be destroyed by fire at any time, and are inconvenient for the purposes used. The Postmaster-General and the Attorney-General both recommended the erection of a public building at this place to the Forty-eighth Congress, and the Treasury Department estimated the cost of the ground for site and of the building at $200,000. But, in the opinion of the committee, the sum of $150,000 is sufficient for this purpose.

A report, similar in its particulars to this report, has been made during the present session by this committee, and the committee therefore recommend the passage of the bill, with the following amendments:

(1) Strike out "two hundred," and insert "one hundred and fifty," between the words "sum of" and "thousand."

(2) Add to the bill the following words: "Nor shall any site be purchased until estimates for the erection of a building which will furnish sufficient accommodation for the transaction of the public business, and which shall not exceed in cost the balance of the sum herein limited after the site shall have been purchased and paid for, shall have been approved by the Secretary of the Treasury; and no purchase of site nor plans for said building shall be approved by the Secretary of the Treasury involving an expenditure exceeding the said sum of $150,000 for site and building."

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 615.

# DINWIDDIE B. PHILLIPS.

Y 18, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

CKER, from the Committee on the Judiciary, submitted the following

## REPORT:

[To accompany bill H. R. 5876.]

Committee on the Judiciary, to which was referred the petition riddie B. Phillips, of Fauquier County, Virginia, begs leave to hat his disabilities should be removed, and with this report sub- bill for this purpose, and herewith returns the petition.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 616.

# SEIZURE OF PROPERTY IN LOUISIANA.

FEBRUARY 19, 1886.—Laid on the table and ordered to be printed.

Mr. GEDDES, from the Committee on War Claims, submitted the following

## REPORT:

[To accompany resolution.]

*The Committee on War Claims, to whom was referred the accompanying resolution introduced in the House of Representatives February* 15, 1886, *submit the following report:*

The Committee on War Claims, to whom was referred the accompanying resolution calling upon the Secretary of the Treasury to report the names of all persons whose property was taken by Federal authority in the State of Louisiana, have carefully considered the same, and report adversely thereon, recommending that said resolution do lie upon the table.

O

9TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 617.

# WILLIAM E. HARDY.

EBRUARY 19, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. MORRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 5259.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5259) granting a pension to William E. Hardy, submit the following report:*

This soldier enlisted at the commencement of the war, in April, 1861, and received his final discharge June, 1865. In June, 1883, he made application for a pension. May 9, 1884, the examiner submitted it to the board of review for admission. They called for more evidence, which was furnished, and the case was resubmitted December 23, 1885, and approved by the board of review. The board of review, however, held that the medical evidence was not sufficient, and in the absence of a hospital record more evidence was needed. This the claimant declares that he is unable to obtain; that he was on detached duty a large portion of the time, and while he frequently consulted the surgeons and was treated by them he cannot remember their names and does not know whether they made any record of it. Being detailed at headquarters he would naturally be brought in direct contact with surgeons who would prescribe for him without making the record they would do if he were in hospital. He claims for rheumatism, deafness, and kidney complaint.

Some twenty affidavits are filed from officers, comrades, and neighbors proving in the clearest manner that he contracted the diseases claimed and that they have existed ever since.

Lieutenant Williams testifies that in getting fuel one night claimant slipped and fell across a T-rail, injuring his back, and causing him to pass blood in his urine.

Lieutenant Wainwright corroborates above, and testifies to great amounts of suffering and affliction from said causes.

Comrade W. H. Bartholomew testifies that claimant had a gathering in his ear; that after it broke he was exposed for nearly two weeks to cold rains, taking cold, and causing deafness. He also corroborates Lieutenant Williams's testimony as to the injury by the fall, and adds, "When we were mustered out he appeared broken down in health, and was suffering from trouble of the kidneys."

Comrade Lucius H. Emmons corroborates above as to deafness and injury to back.

Col. William Greene says he has known claimant for twenty-five years; served near him, and saw him often in the service, and that he lost the hearing of one ear from the effects of a gathering in his head.

Comrade D. C. Adams testifies that he had a serious difficulty of the back, and was quite deaf, and often took medicine from April, 1864, to June, 1865.

L. H. Emmons and C. B. Williams testify that when he came out of the Army he was suffering with rheumatism, deafness, and kidney trouble; that he had several acute attacks, passing bloody urine.

Doctors Fahnestock and Byers testify to treatment since 1877 for kidney and bladder trouble.

Jacob B. Locke testifies that he has known claimant since he came from the Army, boarded in his family, and knows that he was suffering from rheumatism, kidney complaint, sore and inflamed eyes, and was very deaf in one ear; that he has known him ever since discharge, and that he has gradually got worse.

William George says he has known him since 1865, and strongly corroborates the last witness.

Several witnesses testify as to acquaintance in 1868, 1871, and from that time to 1881, and all describe the same difficulties.

The examining surgeon at Nobleville, Ind., July 11, 1883, reports him badly affected with rheumatism, totally deaf in left ear, and has frequent attacks of pain over the bladder and passes bloody urine, and adds, "It is probable that rheumatism is the cause of disease of bladder; I cannot separate the two, hence rate them together."

The examining board at Greencastle, Ind., September 24, 1884, report his disabilities fully, and rate him as seven-eighths totally disabled.

Claimant is spoken of in high terms by his neighbors as being a man of excellent character. He is shown to be without means, and dependent on his own labor for support.

Your committee are unable to understand why the case has not been allowed in the Department. There is, to be sure, a lack of medical evidence, but the reasons given why that cannot be obtained are very strong. Every old soldier who has ever been on detached duty at headquarters, or in quartermaster's or subsistence department, knows how common it was for surgeons to treat them without making any record of it.

Your committee recommend the passage of the bill.

NGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
ssion. } { No. 618.

# BANGS, BROWNELL & CO.

19, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

. REID, from the Committee on War Claims, submitted the following

## REPORT:

[To accompany bill H. R. 1034.]

*mittee on War Claims, to whom was referred the petition of Bangs, Brownell & Co., report as follows:*

he claimants being engaged, under military permit and regula- .he manufacture of tar on the coast of Florida, on the 18th of 65, a vessel, the schooner Martha M., under charter to them n with tar and wood, was seized by the military authorities of ed States at Barrancas, Fla., while making the voyage from o New Orleans. The cargo was removed from the vessel and ntly turned over to the agent of the Treasury, and finally, on of June, 1865, the vessel was returned to the claimants. The as follows:

| | |
|---|---|
| rrels of tar, at $10 | $2,460 00 |
| ds of wood, at $10 | 150 00 |
| f tools and materials | 1,000 00 |
| vessel from April 18 to June 16, 1865 | 1,800 00 |
| al | 5,410 00 |

etitioners filed their claim with Hon. E. M. Stanton, Secretary early in 1866, by whom the same was referred to the Quarter- General for examination, who turned over the papers to the chief aster of the Military Division of the Gulf for examination. vestigation by this official the claim was passed on and dis- for want of jurisdiction, though the entire justice of the claim itted, as the Comptroller of the Treasury, in his letter of April , says:

im is just, but not being founded on contract, express or implied, and there aw of Congress authorizing its settlement and payment, and being for prop- opriated by the military authorities in one of the rebel States, the accounting ve no power to act in the premises. Congress alone has jurisdiction, and er showing I have no doubt will grant adequate relief.

y 6, 1872, this claim was filed with the Commissioners of Claims, disallowed it for want of jurisdiction. In their report they

sel and cargo were seized and Mr. Brownell arrested, imprisoned, tried before commission and acquitted, and after two or three months' detention, Mr. was released and the vessel restored to him, but the tar had been turned

over to the Treasury agent and shipped away, and the proceeds of it are p
the public treasury at this time. The whole proceeding against Mr. Br
this property was unjustifiable on the part of the local commanding offic
severely censured by the department commander. But as the property wa
for the use of the Army or Navy of the United States, the claim is not wi
rediction of the Commissioners and must be disallowed.

In view of the foregoing statement of facts, your commi
regard this claim as just in its character, though too large in
and recommend the payment of $5,000, and report a bill app
the sum of $5,000, and recommend its passage.

C

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 619.

# FRANCES H. PLUMMER.

RY 19, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

MAN, from the Committee on War Claims, submitted the following

## REPORT:

[To accompany bill H. R. 3750.]

*mmittee on War Claims, to whom was referred the bill (H. R. 3750) he relief of Frances H. Plummer, having had the same under con- ation, report as follows:*

the committee adopt and present the favorable report pre- by the Committee on Military Affairs of the Senate of the Forty- Congress, and adopt the same as the report of this committee pending measure, as follows:

he late Brig. Gen. Joseph B. Plummer, a graduate of the United States Mili- demy, served honorably in the Florida and Mexican wars. At the breaking e rebellion he was a captain in command of two companies of the First United ıfantry, stationed at Fort Cobb, in the Indian Territory. In Texas General joined the Confederacy and surrendered his forces. A considerable force of arching northward from Texas, occupied Fort Washita the day Lieutenant- Emory evacuated it, and on the 5th of May, 1861, a large body of Texans oc- ırbuckle. The retreating Union forces were directed to concentrate at Fort rorth, Kans. Captain Plummer evacuated Fort Cobb May 5, and marching joined Lieutenant-Colonel Emory May 9, and proceeded to Kansas. He com the First United States Infantry at Wilson's Creek and was severely wounded. ne colonel of the Eleventh Missouri Volunteers, and for gallantry at Frede- ı, October, 1861, he was promoted to be a brigadier-general. He served with on in many battles, and died of his wounds at Corinth, Miss., August 9, 1862, ı dependent widow.

three officers with him when he evacuated Fort Cobb, two joined the Con- . He had two companies of infantry, and but seven wagons for transporta- ecessary supplies and seven camp women and their children. His own prop- eft behind, save what he placed in five large chests and intrusted to the care ır Barton, the sutler, who was supposed to have engaged to take them to Fort ıd ship them to Saint Louis. Barton, who, like his brother, Captain Barton, ıme command, joined the Confederacy, says he was to take them to New Or- d ship them to New York City. The following is an extract from his affidavit: ıe time of said evacuation the United States did not have sufficient transpor- ır the baggage and effects of the officers stationed at said post, for which rea- ;. J. B. Plummer, First Infantry, United States Army, intrusted to him, to be New Orleans, and thence shipped to New York, if possible, several (he thinks ırge chests, which he represented contained articles of great value, the collec- lifetime; that a few days after leaving Fort Cobb his train was approached ounded by a large body of armed men from Texas, several hundred in number; was made prisoner by them on the ground that he was giving aid and comfort ıited States, the parties claiming to hold commissions from the State of Texas; chests, being marked in the name of the said Capt. J. B. Plummer, United rmy, were declared forfeited, and were forcibly taken from his possession by y of armed men. This was done partly in the Indian Territory and partly in ɔ of Texas, in the month of May, 1861."

A favorable report upon this case in the House during the Forty-fifth Congress says:

"Your committee recognize the fact that when war is actually going on there are many kinds of property that the Government is not liable to pay officers for in case of loss by capture or otherwise; for the reason that at such a time officers must necessarily take the risk and hazard of the service themselves. The Government has, however, provided by law for the payment to officers for horses killed or lost in battle, or by the dangers of the sea while being transported (Revised Statutes, sec. 3482); and also for losses by officers, non-commissioned officers, or privates in the military service, while in the line of duty, of horses and certain other property, by capture or necessary abandonment, &c. (Revised Statutes, sections 3483, 3484, and 3485.) No provision of law, however, gives the right to any Department, officer, or court to pay this claim.

"In analogy to the foregoing legal provisions a part of your committee thinks this claim should be paid. A portion of the committee finds the claim should be paid, for the further reason that Governments have usually undertaken to reimburse its citizens for property lost which was at the outbreak of a war in an enemy's country and seized and confiscated.

"At the time war was declared with Mexico an American citizen was in the port of Vera Cruz with his ship, which was seized and confiscated. The United States Government paid for this vessel and its cargo. If a Government should pay to its private citizens such losses, much more favorably should it regard the claims for losses of its own officers who are so unfortunate as to be serving, when war breaks out, under orders in a territory which becomes, without fault of theirs, insurrectionary or enemy's territory."

The committee all think the claim made by Mrs. Plummer for the loss of Captain Plummer's goods ought to be paid as a matter of right and public policy. Its payment is no precedent for payments for captured or abandoned property in an enemy's country. Captain Plummer lost a large amount of personal property, making his military duties his first consideration, but he saved his troops and led them to battle with great vigor and courage.

A sworn schedule of the goods lost gives as their value the sum of $2,120, but some of them were articles of luxury not usual nor necessary in a frontier camp, and the committee recommend that the words "five hundred" be stricken out of the third line of the bill, leaving one thousand dollars as the sum to be paid Mrs. Plummer, and that as so amended the bill be passed.

O

H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 620.

# WILLIAM H. MORHISER.

RUARY 19, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

LYMAN, from the Committee on War Claims, submitted the following

## REPORT:

[To accompany bill H. R. 5877.]

*Committee on War Claims, to whom was referred the bill (H. R. 604) for the relief of William H. Morhiser, respectfully report:*

at on the —— day of December, 1861, the said William H. Mor-
r enlisted in the Sixteenth Iowa Infantry Volunteers. He was then
ears of age. He served faithfully in that regiment until March,
, when he was honorably discharged.
e desired again to enter the service of his country. His father was
ptain in the Eighth Iowa Cavalry, then in the field, in Tennessee,
was commanded by Col. I. B. Dorr. Colonel Dorr desired his services
s regiment, and with the intention, as soon as a vacancy should
r, of having him commissioned in the Eighth Iowa, sent for him to
the regiment. He did so on the 30th day of November, 1863. In
g this he relinquished an appointment then held by him as first
enant in the Ninth Iowa Cavalry, then being organized in Iowa;
there being at that time no vacancy in the Eighth Cavalry, he
n service as a scout under the employment of Colonel Dorr, then
nanding the regiment and afterwards a brigade.
e continued in the service faithfully until the 20th July, 1864, per-
ing valuable service for the Government. On the last-named day
regiment to which he was attached was captured and its members
en prisoners. He spent his time from then until January 31, 1865, in
prisons of the South—in Andersonville and other prisons—when he
released, and returned to his home. During his prison life he en-
ed all the privations incident thereto, and his health was so impaired
t he never has recovered it. All the evidence is that during all this
e his services were faithful and valuable, and for which he has not
n paid anything.
our committee think that under these facts Mr. Morhiser should be
at the rate at which other soldiers in the same situation were paid,
the committee therefore report a substitute for the pending measure,
recommend that the original bill lie on the table and that the sub-
ite do pass.

O

: CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
2 Session. } { No. 621.

# GEORGE T. DUDLEY.

RUARY 19, 1886.—Committed to the Committee of the Whole House and orderted to be printed.

LYMAN, from the Committee on War Claims, submitted the following

## REPORT:

[To accompany bill H. R. 1503.]

*Committee on War Claims, to whom was referred House bill* 1503, *beg leave to submit the following report:*

his claim was before the Forty-eighth Congress, and the Senate Com-ee on Military Affairs, by Mr. Sewell, reported in favor of the pas-e of a bill exactly similar to this one, and your committee concur in recommendation and make it their own. The following is the re-t of the Senate committee:

*Committee on Military Affairs, to whom was referred the bill (S. 1668) for the relief of George T. Dudley, having considered the same, respectfully report:*

he committee beg to present, and make a part of their report, the following let-of the Secretary of War and Adjutant-General of the Army, and also the state-it of Lieut. George T. Dudley:

WAR DEPARTMENT,
*Washington City, May* 27, 1884.

IR: I have the honor to acknowledge the receipt of your letter of the 24th instant, osing the copy of the General Court-Martial Orders No. 17, headquarters Army he Potomac, May 19, 1865, in the case of First Lieut. George T. Dudley, Fiftieth York Volunteer Engineers, previously furnished to you by this Department, and esting to be informed as to the specifications in the case, in order to the verifica-of statements made by Lieutenant Dudley in connection with a bill for his ef now before the Senate Committee on Military Affairs.

reply, I beg to inclose herewith a copy of the charges and specifications in the in question, made from the proceedings of the court-martial in the case, and to n, in accordance with your request, the copy of the General Court-Martial Orders 7, received with your above-mentioned letter.

Very respectfully, your obedient servant,

ROBERT T. LINCOLN,
*Secretary of War.*

on. BENJAMIN HARRISON,
*Of Committee on Military Affairs, United States Senate.*

WAR DEPARTMENT,
ADJUTANT-GENERAL'S OFFICE,
*Washington, May* 2, 1884.

IR: I have the honor to return herewith a letter of the Hon. Benjamin Harrison, ited States Senator, of the 22d ultimo, inclosing a bill (S. 1668, Forty-eighth Con-s, first session) for the relief of George T. Dudley, late first lieutenant Fiftieth New rk Volunteer Engineers, and requesting any information touching the matter that y be found of record in the Department, and to report as follows:

The records of this office show that George T. Dudley was originally mustered into *vice as first lieutenant, Company I,* One hundred and third New York Volunteers,

to date March 20, 1862, and honorably discharged, on tender of resignation, September 30, 1862.

He re-entered the service as first lieutenant, Company M, Fiftieth New York Volunteer Engineers, February 19, 1864, to serve three years, and was "dishonorably dismissed the service of the United States, with loss of all pay and allowances," May 19, 1865, by sentence of general court-martial, promulgated in General Court-Martial Orders No. 17, of that date, Army of the Potomac, copy herewith.

On June 3, 1865, the Secretary of War directed that the sentence of general court-martial in the case of Lieutenant Dudley be revoked and he be honorably mustered out with his regiment.

June 9, 1865, the same was returned to the Secretary for further instructions, with the statement that "the usual practice of the Department in these cases is simply to remove the disability resulting from dismissal, thus allowing the officer to re-enter the service upon a new commission." This was submitted to the Secretary on June 10, 1865, who directed that action in the case conform to established regulations. Thereupon Special Orders No. 294, paragraph 59, was issued from this office on June 10, 1865, the text of which is as follows:

"By direction of the President, the disability resulting from the dismissal of First Lieut. George T. Dudley, Fiftieth New York Volunteer Engineers, is hereby removed, and, *upon the receipt of a new commission by him from the governor of New York*, it is ordered that he be mustered into service, and honorably mustered out of service with his regiment."

He was recommissioned by the governor of New York as a first lieutenant in the same company and regiment June 12, 1865, and his commission was forwarded to him on June 13, 1865; but as his company was mustered out of service at Fort Berry, Virginia, on that date (June 13), he could not, under then existing laws, orders, and regulations, be mustered in on his new commission, or recognized as an officer subsequent to the date of his dismissal by sentence of general court-martial.

The removal of the disability resulting from dismissal was simply an assurance and declaration that if the dismissed officer was recommissioned by the governor of his State he would be permitted to re-enter the service of the United States.

It is held there is no authority existing to revoke, annul, set aside, or modify a duly confirmed and executed sentence of a general court-martial.

I am, sir, very respectfully, your obedient servant,

R. C. DRUM,
*Adjutant-General.*

The Hon. SECRETARY OF WAR.

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*To the honorable members of the United States Senate and House of Representatives, Washington, D. C.:*

Your petitioner would humbly present that in April, 1865, he was a first lieutenant in Company M, Fiftieth New York Volunteer Engineers, and stationed at City Point, Va. That on the 3d day of April I had permission to visit Capt. J. H. Woodward, captain and commissary of subsistence, in the vicinity of City Point, then in charge of the general cattle herd of the Army of the Potomac. That while at dinner word was brought from City Point that "Richmond was ours," and on the spur of the moment I accepted the invitation of Captain Woodward to ride up to the city, to return the same evening. With an escort of ten men we arrived in the city of Richmond about 6 p. m., and when, about 8 p. m., I urged Lieutenant Fuller and Captain Woodward to return with me to City Point, they refused, Captain Woodward using the escort of ten men to assist in protecting property. I was forced to remain until the next day or ride in the night a distance of 20 miles alone through a country filled with bushwhackers. I chose to remain until the following day. For this I was tried by a field court-martial and dismissed the service, with loss of all pay and allowances. When my trial took place we were at Burkesville Junction, and as I could not learn of the whereabouts of Captain Woodward and Lieutenant Fuller, I consulted with Lieut. E. Barton Hough, judge-advocate of the court, who advised me, under the circumstances, to plead guilty and throw myself on the mercy of the court. I did so, and received the mercy extended by the wolf to the lamb. After my dismissal, Hon. A. S. Diven, of Elmira, N. Y., called upon the honorable Secretary of War, E. M. Stanton, laid the case before him, and he immediately wrote an order *revoking* the sentence of the court, meaning to restore me to my rank and pay; but when the order from the War Department reached me, I was required to be recommissioned and mustered out with my company. *I was remustered and mustered out with my company, but lost my pay and allowances* from February 28, 1865, to June 14, 1865, with three months' pay proper given to all officers at their muster out of service, in all amounting to about $625. It was the intention of Secretary Stanton to restore me to my company by an-

nulling the proceedings in the case. In 1867-'68, Hon. Hamilton Ward, M. C., twenty-ninth district of New York, tried to get my claim before President Johnson; but, I think on account of the impeachment trial, failed to accomplish anything; and since then I have not been able to visit Washington to try and get justice done me.

It may not be improper for me to say that I enlisted the Tuesday night following the firing on Fort Sumter, April 14, 1881; was No. 3 of the men who enlisted in the city of Elmira. I am the only survivor of *four* out of *five* brothers who entered the Army. One died on Hatteras Island, one was killed at the battle of South Mountain, Maryland, and a third died within a year of his return home. I lost my health in the service, am a pensioner, and so badly disabled as to be only able to perform clerical duties, and with no means of support except a small salary. My only offense consisted in being *compelled* to remain over night away from my command, in the city which I had spent nearly *four* years, the best of my life, in trying to reach. If there had been any disgraceful act on my part and the sentence just, I should have accepted the punishment as deserved, but I was more sinned against than *sinned*, and the punishment the result of bad advice from one whom I *thought* my friend, but who proved my *enemy*, it will be only an act of justice long deferred to restore to me that which is mine rightfully, and which I earned while sacrificing health and almost life in defense of my country and my country's flag.

I would therefore pray your honorable body to restore to me the pay and allowances withheld from me by sentence of court-martial. Your attention is invited to the accompanying statement of the Hon. J. H. Woodward, of Portland, Oreg., late captain and commissary of subsistence on the staff of General George G. Meade.

Very respectfully, your obedient servant,

GEO. T. DUDLEY,
*Late First Lieutenant, Fiftieth N. Y. V. Engineers, Co. M.*

An investigation of the papers in connection with this case led the committee to believe that the statement made by Lieutenant Dudley as to his absence without leave, for which he was tried and dismissed the service, is a correct and true one, and the Secretary of War, recognizing this to be the fact, would have reinstated him in the service if he had possessed the power to revoke, annul, or set aside the action of the court, after having been appointed by a competent authority. The committee recommend the passage of the bill with the following amendment:

Strike out all after the enacting clause and insert the following:

"That the said George T. Dudley shall be entitled to, and receive, the pay and allowances of his rank which were due him at the date of his dismissal from the service, and that the Treasurer of the United States be, and is hereby, authorized to pay the said George T. Dudley, from any moneys in the Treasury of the United States not otherwise appropriated, the amount found to be due him at that time."

: CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
r Session. } { No. 622.

# DAVID L. WRIGHT.

FEBRUARY 19, 1886.—Laid on the table and ordered to be printed.

. LYMAN, from the Committee on War Claims, submitted the following

## REPORT:

[To accompany bill H. R. 4470.]

*Committee on War Claims, to whom was referred the bill (H. R. 4470) for the relief of David L. Wright, respectfully report:*

hat the said claimant was on the 3d day of May, 1863, a first lieuten- of the Fifty-seventh Indiana Volunteer Infantry, and that he was tured in the State of Georgia by the Confederate forces under eral Forrest and sent to Libby prison, at Richmond, Va. He re- ned a prisoner of war until he was exchanged about March 2, 1865. en captured he had upon his person personal property belonging to self as follows:

| | |
|---|---|
| ..... | $730 00 |
| sword ..... | 30 00 |
| pair of pistols (holster) ..... | 60 00 |
| pair of pistols (belt) ..... | 35 00 |
| Total ..... | 855 00 |

his property was taken from him by the Confederate authorities, , except the sum of $30, never returned to him. There is no intima- or claim that any part of it ever came into the possession of the ernmental authorities.

elieving the misfortunes of the claimant to be one of the unavoid- e casualties of war, the committee think the payment of this claim ld open a field upon which we ought not to enter. It is recommended t the bill lie on the table.

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TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 623.

# ELIZABETH LEEBRICK.

FEBRUARY 19, 1886.—Laid on the table and ordered to be printed.

- LYMAN, from the Committee on War Claims, submitted the following

## REPORT:

[To accompany bill H. R. 4878.]

*e Committee on War Claims, to whom was referred the bill (H. R. 4878) for the relief of Mrs. Elizabeth Leebrick, respectfully report:*

That the facts in this case are fully set out in a report of the Com-ttee on Invalid Pensions, made to this House in the Forty-seventh ngress, by Mr. Cullen, as follows:

t appears, from an examination of the petition and accompanying papers, that the itioner is a resident of Quincy, Ill., and is now over eighty-two years of age, the ghter of Jacob Angus, a Revolutionary soldier of the State of Pennsylvania.

he evidence before your committee shows that this lady rendered valuable aid to soldiers, as nurse and attendant, in the different hospitals in the Southwest dur- the war of the rebellion, which were entirely gratuitous on her part, and that she nt of her own private means about the sum of $700 in this charitable work.

'r. R. Nicholls, surgeon-general hospital, Quincy, Ill., June 8, 1863, states:

Mrs. Leebrick having told me that it is reported that she receives pay for her serv- to the soldiers, I certify that never to my knowledge has she received any com-sation for the valuable services rendered by her to this hospital."

ewton Flagg states, May 20, 1869, in a letter to the petitioner (dated Quincy, Ill.):

I was stationed at this place as assistant quartermaster and acting commissary of sistence during the late war. I can testify that during all that time you were the stant and devoted friend of all our soldiers, but more especially of those who were t and suffering. I know that the greater part of your time for four years was nt in their service, and that by your efforts many thousands of dollars were gath- d and distributed to the sick and wounded, not only in our own hospital, but to se in the field."

There are other letters showing the character and value of the service rendered by petitioner, especially to our invalid soldiers, and it is shown that she met with a ere accident while assisting in the transfer of the sick and wounded after the ttle of Shiloh to Quincy, Ill.

The petitioner is partially blind, having lost the sight of an eye, and her husband been totally blind for eight years. An application was made three years ago to Pension Office for her relief, but as there is no law allowing a pension to this ss of cases, nothing could be done there.

There is doubtless great merit in the services of this claimant, and the mmittee would be gratified if there was any legal way to compensate r, but her services and contributions were voluntary, and not with y expectation of compensation, and we think there is nothing in the w that will authorize a favorable report in this bill.

Your committee recommend that the bill lie on the table.

GRESS, } HOUSE OF REPRESENTATIVES. { REPORT
ion. } { No. 624.

# CHARLES B. SIGNOR.

BRUARY 19, 1886.—Laid on the table and ordered to be printed.

AN, from the Committee on War Claims, submitted the following

## REPORT:

[To accompany bill H. R. 1450.]

*mmittee on War Claims, to whom was referred the bill (H. R. 1450) r the relief of Charles B. Signor, submit the following report:*

s is a case of peculiar hardship, and one which each individual ber of the committee would be rejoiced to relieve, but the commit- annot find any authority in law or equity for devoting the public s to that purpose.

e claimant, Charles B. Signor, was born in 1843. In 1849, at six s of age, his right leg was taken off at the knee by a thrashing- ine. At the outbreak of the rebellion he was residing with his nts at Earlville, La Salle County, Illinois. In November, 1864, ent to Memphis, Tenn., in search of employment. He had several nds, and among them a brother, who were officers in the Union y in and about Memphis. Among these friends were also Lieut. B. McPherson and Capt. C. S. Graff, Sixty-first United States ored Infantry.

n the afternoon of December 23, 1864, he went to camp of the Sixty- Regiment, aforesaid, to visit Lieutenant McPherson and Captain ff. The camp was situated about two miles south of the city of nphis. He learned at camp that Lieutenant McPherson was at the it in command of a portion of the picket line. He went to the picket , and there found that Lieutenant McPherson was not at the picket t, but had gone beyond the lines to a neighboring house. By per- sion of the colored corporal in charge of the squad at the picket post, went outside the lines for the purpose of going to said house to see utenant McPherson. After he had gone a little distance, the cor- l reversed his permission, and sent a colored soldier to bring claim- back to the lines, and in coming back the claimant was shot in the t arm, which resulted in amputation. He was probably shot by soldier who went after him. What was the cause of the shooting is known, but it is supposed that the soldier mistook some motion of claimant as an attempt to draw a pistol. The soldier was court- rtialed and acquitted.

t is for the loss of this arm that the claimant demands relief. We see no reason why the Government of the United States should ompense him, and your committee recommend that the bill lie on table.

H CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 625.

# MRS. BENJAMIN SMITH.

FEBRUARY 19, 1886.—Laid on the table and ordered to be printed.

LYMAN, from the Committee on War Claims, submitted the following

## REPORT:

[To accompany bill H. R. 5148.]

*Committee on War Claims, to whom was referred the bill (H. R. 5148) compensate Mrs. Benjamin Smith for services in the Union Army, respectfully report*

hat the evidence shows the following state of facts: Her husband, ajamin Smith, was an officer of the Second Michigan Cavalry, and wife, the claimant herein, accompanied him to the field (as was not infrequent custom), doing so by consent of the proper authorities. devoted her time to various acts of kindness and humanity, nurs- the sick and wounded, and in other ways alleviating the sufferings war, and also contributed of her personal property to the good of the rice, and expended her money. Her petition for relief shows that hat time she and her husband were in comparatively affluent circum- aces, but that she is now poor and perhaps needy. What she did s, at that time, done voluntarily, from patriotic motives and with no ectation of recompense. This is all shown by her petition, and it is shown that the financial reverses of late years has been the induce- at to this application for relief. While the committee deeply sym- hize with the claimant in her misfortunes, and greatly admire her ve and patriotic conduct during the war, they are unable to find any rant in law or equity for the payment of the claim, and they there- e recommend that the bill lie on the table.

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)TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 626.

# ROBERT CARTER.

FEBRUARY 19, 1886.—Laid on the table and ordered to be printed.

r. LYMAN, from the Committee on War Claims, submitted the following

## REPORT:

[To accompany bill H. R. 980.]

*e Committee on War Claims, to whom was referred the bill (H. R. 980) for the relief of Robert Carter, respectfully report:*

That this is a claim for 44 mules at $135 each, total $5,940. The facts established by the evidence are that in July 1863, when the Federal ces took possession of Natchez, Miss., the claimant was a resident nter in Concordia Parish, Louisiana, near to Natchez. He owned two three plantations, and on one or more of them was the property in troversy. Immediately on the occupation of Natchez, General Ran-n, then commanding there, found it necessary to use some cavalry for necessary purposes of military occupation and defense. He had no unted cavalry at his command, and he directed Col. Joseph Stockton seize such animals as he could find in the country, to mount his com-nd therewith, and make a cavalry raid against the enemy. This he , and in thus carrying out the said orders he took forty-four mules he claimant, and used them for the purposes aforesaid. He made lication afterwards, in 1880, to the Quartermaster-General's office for nbursement under the act of July 4, 1864, and his claim was rejected. applied to the Forty-seventh and the Forty-eighth Congresses, and so as the record shows no action was ever taken on his bills by either ngress or its committees. The only proof as to his loyalty is his own tement. He says under oath that he was loyal. Under these facts, hich are undisputed, the property being in the enemy's territory dur-g actual hostilities, and needed for the immediate military uses of the rmy, your committee think the claims should not be paid, and rec-mmend that the bill do lie on the table.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 627.

# WILLIAM H. WILLOUGHBY.

FEBRUARY 19, 1886.—Laid on the table and ordered to be printed.

Mr. GEDDES, from the Committee on War Claims, submitted the following

## REPORT:

[To accompany bill H. R. 4457.]

*The Committee on War Claims, to whom was referred the bill (H. R. 4457) for the relief of William H. Willoughby, having examined the samanae accompanying papers, submit the following report:*

The bill asks for the payment of $337.50, as the value of property taken and used by the United States Army in October, 1864. Exhibits on file from the Quartermaster's Department, dated October 10, 1885, show that no record of any claim can be found in that office.

The claimant has filed his own affidavit in the case, in which he says:

> That the articles mentioned were taken by General Sherman's army, on the backward march of said army, in pursuit of Hood's rebel army some time in the month of October, 1864, at Gaylesville, Cherokee County, Alabama, for the use of the said army of the United States, and were actually so used, as I am informed and believe.

It appears in the evidence that the agent of claimant, October 12, 1885, made the following inquiry of the Quartermaster-General:

> Whether or not I can now file a claim for property taken by the Government during the late war?

To this inquiry the following answer was returned:

> All claims for quartermaster's stores not presented and filed prior to January 1, 1880, are barred by statue of limitation of March 3, 1879.

No explanation is given for the neglience of the party in not seeking payment sooner. He may have been advised that it could not be allowed under the act of July 4, 1864, for the property was taken during the war, in a State in insurrection.

Manifestly it would be dangerous to give the least encouragement to claims of this class, and your committee recommend that the bill do lie on the table.

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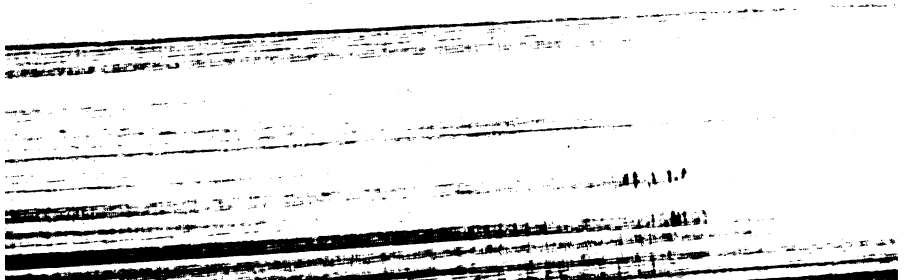

CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 628.

# HEIRS OF PETER NOLAN.

FEBRUARY 19, 1886.—Laid on the table and ordered to be printed.

GEDDES, from the Committee on War Claims, submitted the following

## REPORT:

[To accompany bill H. R. 89.]

*Committee on War Claims, to whom was referred the bill (H. R. 89) the relief of the heirs or legal representatives of Peter Nolan, having mined the same and accompanying papers, submit the following report:*

ie bill in this case seeks payment of the sum of $462, being the al- l value of lumber taken by the United States Army during the late and used for military purposes.

appears from the exhibits in the case that the property was taken ie State of Arkansas, in the fall of 1864, by soldiers belonging to Federal Army. Maj. Gen. J. J. Reynolds, in reporting the transac- June 20, 1865, uses the following language:

on an investigation made at these headquarters, the officers appearing in person, it ars that the taking and appropriation of the lumber for which claim is made was nauthorized act perpetrated by the enlisted men of the Second Kansas Colored ntry.

ie transaction occurred twenty-one years ago, and the claim is now e by the heirs of the said Peter Nolan, deceased.

he taking of the property appearing to have been unauthorized, tes no obligation against the Government for compensation. This of international law was adopted in this country at a very early od. Claims of this character have been frequently presented against Government and generally disallowed. The loss of property by the ithorized acts of the Federal troops in their marches and encamp- ts during the late war was great and often oppressive. No army ever been found free from acts of wanton destruction and pillage by soldiery.

he principle stated has been so generally recognized and enforced your committee do not feel called upon to depart from it in this in- ice, and therefore report against this claim, and recommend that the lie upon the table.

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CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
: Session. } { No. 629.

# ASA FAULKNER ET AL.

FEBRUARY 19, 1886.—Laid on the table and ordered to be printed.

ɜEDDES, from the Committee on War Claims, submitted the following

## REPORT:

:company petition of Asa Faulkner and others for relief for property destroyed during the war.]

*Committee on War Claims, to whom was referred the petition of Asa vlkner, Lewis Faulkner, and S. B. Spurlock, submit the following ort:*

ır committee find the facts of this case sufficiently set forth in the on of claimants to answer the present purpose.
the petition they say:

company put up the machinery and commenced business about the last of ary, 1862. They employed about eighty looms and three thousand spindles the establishment was destroyed by order of Col. J. T. Wilder, commanding .e in the Fourteenth Army Corps, on the 21st of April, 1863, in pursuance of au- from the headquarters of the army at Murfreesboro'. At this period the na- forces had not advanced far enough east to occupy the country and protect it ıt rebel troops, who frequently entered McMinnville and compelled the com- by force to supply them with materials for clothing their troops. To prevent e of this mill by rebel authorities, as a means of clothing their troops, and thus ›ple the enemy by cutting off his supplies and thereby to aid the Government :ting down the rebellion, the Federal military authorities decided to take and y the manufactory and its machinery, materials, and productions.

ıimants then aver that their interest in the building, machinery, :otton thus destroyed was of the value of $95,893.68.
ıims of this kind have been frequently considered by this commit- .nd so uniformly reported against, and the same sustained by Con- ı, that it should be considered the settled policy of Congress in this of cases.
ıring the present session of Congress your committee have reported ı involving the same identical principle.
e Columbia Bank, of Columbia, Pa., is one of the cases.
e loss complained of in this case resulted from the ravages of war. was of the first importance, as it appears from the statement of by the claimants, that this property should not fall into the hands e enemy. It was necessary to destroy it to prevent it from falling their possession. It could have furnished supplies as important to ıuccessful operations of an army as powder and cannon. The de- :tion therefore of this property was a matter of self-defense.
this case your committee find that the destruction of this prop- under the circumstances stated by claimants, was a military ne- ty, and therefore recommend that their petition for relief do lie *the table.*

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TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 630.

# YMENT OF THE SURPLUS IN THE UNITED STATES TREASURY.

RUARY 23, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

. MORRISON, from the Committee on Ways and Means, submitted the following

## REPORT:

[To accompany H. Res. 126.]

*e Committee on Ways and Means, to which was referred sundry joint resolutions and propositions relating to the appropriation or payment of urplus revenue on the public debt, respectfully reports:*

That on January 30, 1886, as shown by the official "statement of assets and liabilities of the Treasury of the United States," there s in the Treasury and United States depositories, including amount ld for the redemption of United States notes, and not including minor d fractional silver coin classed "as assets not available," the sum of 79,689,862.24 in excess of all other liabilities than the redemption of id United States notes.

It is believed that this sum is largely in excess of the sum required r the purpose for which it is held, and that a considerable part thereof ould be applied to the payment of the interest-bearing debt of the nited States now payable, to the end that public moneys shall be used lighten public burdens and not unnecessarily held to lure the agents d representatives of the people on to improvident and wasteful ex-enditure.

Your committee therefore reports the accompanying joint resolution nd recommends its adoption.

Mr. HEWITT submitted the following as the

# VIEWS OF THE MINORITY:

The undersigned dissent from the report of the majority of the Committee on Ways and Means in favor of the following joint resolution, directing the payment of the surplus in the Treasury in excess of $100,000,000, on the public debt:

*Resolved by the Senate and House of Representatives in Congress assembled,* That whenever the surplus, or balance in the Treasury, including amount held for redemption of United States notes, shall exceed the sum of $100,000,000, it shall be, and is hereby, made the duty of the Secretary of the Treasury to apply such excess, in sums not less than ten millions per month during the existence of any such surplus or excess, to the payment of the interest-bearing indebtedness of the United States payable at the option of the Government.

The effect of this resolution, if enacted into law, will be to reduce the balance in the Treasury available for the payment of its current indebtedness and for the redemption of the legal-tender notes to $100,000,000. It makes no provision for replenishing the Treasury when the available balance shall fall below $100,000,000. The question thus presented is whether, in view of the obligations and the functions of the Treasury as now defined by law, the proposed limitation upon the balance to be held for meeting the liabilities payable on demand is prudent and safe, with a due regard to the solemn pledge of the United States to redeem all its indebtedness in coin or its equivalent. The undersigned believe that such a limitation would be unwise, dangerous, and at variance with the experience alike of solvent nations and of sound financial institutions.

The ordinary disbursements of the Treasury may be roughly stated to amount to about $1,000,000 per day. To meet these disbursements it is necessary that a reasonable working balance should be kept on hand, because at times the current expenditures largely exceed the daily receipts. Careful business firms usually carry a balance equal to one month's disbursements. Measured by this standard, and a lower one cannot be safely adopted, because the Secretary of the Treasury has no power to make temporary loans, the working balance in the Treasury should be about $30,000,000. That this amount is not too large will be apparent from the fact that in the Pension Bureau alone drafts for $10,000,000 will be made on the 1st of March, and that the amount of future payments, under the arrears act, cannot be definitely fixed for any specified date.

But, besides the current expenditures provided for by law, the United States has a totally distinct obligation to provide for a debt payable on demand, in the shape of $346,681,016 of legal-tender notes. These notes form about one-half of the paper currency of the country. They constitute the final means of payment between individuals and of settlement in all the transactions of business. It is absolutely necessary, therefore, that the ability to redeem these notes in coin shall be at all times assured beyond peradventure. For this purpose there must always be retained in the Treasury a reasonable and adequate reserve of coin. The only question is as to the amount of coin which will constitute a reasonable and adequate reserve. To determine this point we have no other guide but usage and experience. In the case of gold and silver certificates the Treasury keeps dollar for dollar, but in the case of the legal-tender

notes it has not been usual to have at any time in the Treasury a reserve in coin exceeding one-half of the whole issue of such notes. When specie payments were resumed, bonds of the United States were sold so as to provide a fund amounting to $95,500,000 in gold for the purpose of assuring the redemption of the notes, which, as the law then provided, were to be reduced by cancellation to $300,000,000. It was certainly not considered safe to begin resumption with less than one-third reserve, and, as a matter of fact, the available balance in the Treasury amounted to over 40 per cent.

At the present time, under the practice of the Treasury, claimed to be in accordance with the bank act of 1882, $100,000,000 in gold coin is set apart for the redemption of the legal-tender notes, being rather less than 29 per cent. This reserve would be regarded by prudent bankers as a minimum amount in an easy money market, but if the financial prospects should be threatening, prudence would require that it should be enlarged and strengthened. The practice of the Treasury, under Secretary Sherman, who put the resumption act in operation, was not to allow the reserve to fall below 40 per cent., and, all things considered, this is probably the smallest amount consistent with absolute safety. If this ratio be adopted, the amount of the reserve in coin would be $138,000,000. Adding this amount to the amount heretofore stated as a reasonable working balance, we have the sum of $168,000,000 as the minimum balance which the Treasury should carry in order to be in a condition of ease and safety. Any other conclusion is at variance with lessons of experience and the well-established rules for the safe conduct of business.

The main argument urged for infringing on this balance must be the saving in interest on $68,000,000, which, after allowing for the tax on bank circulation, is 2½ per cent. per annum, amounting to $1,700,000 annually. But it is to be remembered that the demand debt of the United States, represented by the legal-tender notes, bears no interest, and that the gain in interest between the total amount and a proper reserve is over $4,000,000 per annum, so that the Government can well afford the outlay required to keep its finances in the strongest possible position, and should certainly never approach the point where, under the law, it might become necessary to sell United States bonds in order to preserve specie payments. Such a contingency would not be an edifying spectacle to a people whose proud boast it is that in twenty years from the close of the war it has paid off more than one-half the public debt and reduced the burden of interest to one-third of its original amount. Certainly, a policy so humiliating would be condemned by the people when its effects shall become apparent.

In all measures affecting the currency of the country the greatest care must be taken not to interfere with its flexibility. This essential attribute of a safe currency must reside somewhere, its exact depository depending upon the system of banking in operation. Under our system of national banks, in which the issue of notes is limited to 90 per cent. of the bonded debt deposited to secure the circulation, the only flexible agency resides in the Treasury; by virtue of the power now exercised by the Secretary to make calls for the redemption of the public debt. It is a grave question whether such power should ever be intrusted to the Government or to the discretion of any official. In other conservative commercial countries it has been conferred upon intermediate agencies, in direct communication with the business interests of the people. We have no such system, and hence the Treasury has been forced to become a member of the New York Clearing House, which is the financial center of the exchanges of the country. The Treasury is thus practically en-

gaged in the banking business, not only in the issue of currency, but in adapting its operations to the general requirements of trade.

Dangerous as this system is, it was the outgrowth of necessity, and until some other security beside the bonded debt of the United States is devised for the issue of bank currency, the power to come to the relief of the money market in times of stringency must reside in the Treasury. The remedy is not to destroy or impair the only flexible element of the existing system in the calls of bonds, but to divorce the Government altogether from the banking business, and bring it back to its ancient and only legitimate function of collecting its revenues in lawful money, and of making its disbursements out of the money thus collected in accordance with law. This result can only be reached by the payment of the demand notes of the United States, and substituting through the national banks, or some other fiscal agency, an issue of currency subject to adequate taxation, properly secured and automatic in its expansion and contraction, the redemption of which will belong to the agency of issue and not to the Government, whose only function will then be to see that the security is sufficient, and the general administration carried on in accordance with the well-settled principles of safe banking.

One other consideration may be presented as a fatal argument against the reduction of the Treasury balance to $100,000,000 in coin, necessary at all times to be kept for the redemption of the legal-tender notes. The ability of speculators to reduce this balance below $100,000,000 by presenting demand notes for payment is obvious, and unless the expedient for replacing the amount by the sale of bonds be resorted to, the money market could be so manipulated as to impair confidence and bring about a general disaster, by which the operators for a fall would reap abundant profits at the expense of the legitimate business of the country. Within a very recent period, when the Treasury was plethoric with money, but with an impaired gold balance, all the indications pointed to a great disturbance to be effected by the hoarding or exportation of gold. Very strenuous efforts and decided measures were required to prevent the catastrophe, which at any time may occur when the danger line is passed in the reduction of the gold balance below the minimum reserve originally provided for the resumption of specie payments.

The undersigned being clearly of opinion that the proposed resolution will neither be economical, so far as the Government is concerned, nor advantageous to the business interests of the country, but in fact extremely dangerous in times of recurring stringency in the money market, recommend that it be laid upon the table.

They annex to this report the letter of the Secretary of the Treasury in reply to the inquiry of the committee as to the effect of the resolution, which will serve to show that the experience and judgment of the Treasury Department are altogether opposed to the proposed legislation

ABRAM S. HEWITT.

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TREASURY DEPARTMENT,
*Washington, D. C., February* 13, 1886.

SIR: I have received a copy of the following proposed joint resolution respecting surplus revenue, now under consideration in your committee, and upon which you do me the honor to request my opinion:

"JOINT RESOLUTION directing the payment of the surplus in the Treasury in excess of $100,000,000 on the public debt.

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That whenever the surplus or balance in the Treasury, including

ld for redemption of United States notes, shall exceed the sum of $100,000,000, , and is hereby, made the duty of the Secretary of the Treasury to apply s, in sums not less than $10,000,000 per month during the existence of any lus or excess, to the payment of the interest bearing indebtedness of the ites payable at the option of the Government."

guage of this resolution is such as to include in the "surplus or balance in ury" the amount held for redemption of United States notes. This is in no rplus, but is set apart and appropriated as a minimum security and reserve lemption and payment of $346,681,016 of United States notes which have d, both of which are specifically promised in the act of March 18, 1869 (R. This reserve, amounting to $100,000,000, should, of course, be held above all of an encroachment, like that which my distinguished predecessor, Mr. , in his last annual report (p. 33), was constrained to exhibit and deplore. olution now before me requires that there should be at no time a surplus in ury available for the general needs of the Government to exceed $10,000,000, when this sum is reached it should be immediately paid upon the public

early twelve months' experience in the conduct of this Department, and g, as well as I am able, future requirements of the Treasury, as now defined g laws, and as they may be affected by legislation yet to come, and consid- course of future receipts, which are liable to influence from many causes, e fluctuation of imports, the prolonged depression of trade, and the market- e or less of our agricultural products abroad, I cannot now fore see a state of ich will make it prudent to limit the surplus reserve in the Treasury to a ng from nothing to a maximum of $10,000,000.
slation now before Congress relating to pensions will, if perfected, increase ds upon the Treasury to an amount which it is impossible to exactly esti- l a late decision of the Supreme Court subjects the Government to the re- f duties collected, the aggregate of which is large but altogether indefinite. gs are mentioned to remind the committee that neither the calls upon the nor the exact time that such demands must be met can be precisely fore-

l seem to follow, as a business proposition, that if the Government is to its credit, in the sense of being prepared to meet all just demands, which ible of ascertainment in advance, there should be a reasonable sum laid by hand for that purpose.
pectfully yours,

DANIEL MANNING,
*Secretary.*

ILLIAM R. MORRISON,
*irman Committee on Ways and Means.*

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## ADDITIONAL VIEWS OF THE MINORITY.

ndersigned deem that one hundred millions at least are needed le security for the redemption of the issue of legal-tender notes, k that security ought not to be impaired. They think also that nt working reserve for the business of the Government ought ained in the Treasury, in addition to the legal-tender redemp- . The bill proposed by the committee, in our opinion, ignores nditions, and in our judgment will shake public confidence in lity of our currency in such a way that the saving of interest e bill may cause will be but a trifle compared with the injury ed.

T. B. REED.
FRANK HISCOCK.
T. M. BROWNE.
WM. McKINLEY.

H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 631.

# CRIMINAL PROCEEDINGS IN CASES OF CRIME.

BRUARY 23, 1886.—Referred to the House Calendar and ordered to be printed.

TUCKER, from the Committee on the Judiciary, submitted the following

## REPORT:

[To accompany bill H. R. 2492.]

*Committee on the Judiciary, to which has been referred House bill 2492, beg leave to report:*

the Forty-eighth Congress this committee reported this bill favor-
, and submitted a report in the following words:

committee, after full consideration, thought it best to decline to attempt a
tory construction of the words "infamous crime" in the fifth amendment of the
itution of the United States. The precise meaning of those words as used by
amers of the amendment is not easy to be ascertained, as the debates do not
light upon it; but the general purpose of the amendment is clear.
was framed *in favorem libertatis*, and as an essential guard against the power of
rnment, and for the protection of the citizen from false accusation and unjust
ction by the requirement of the judgment of twelve men on a grand jury to ac-
and of twelve men on a petit jury to convict.
ir committee, therefore, report a substitute for the bill referred to them, and by
uires that—
o man shall be held to answer for any crime, the punishment whereof, upon con-
n, is or may be loss of life or liberty, unless upon a presentment or indictment
grand jury."
s will leave all offenses punishable by fine or forfeiture of property to be tried
formation; while all offenses for which life or liberty may be forfeited must be
ed by a grand jury and tried by a petit jury. The reasons for this action will
e presented.
en the Federal Convention, which met in Philadelphia in May, 1787, presented
States for their several ratifications the plan of a constitution, many of the
showed apprehensions that the powers delegated to the new Government were
ifficiently guarded in the interests of personal liberty, and of the reserved pow-
the States. The first ten amendments were proposed by Congress upon the
stions of the States of New York, Massachusetts, New Hampshire, Rhode Island,
nia, and North Carolina.
sachusetts proposed "that no person shall be tried for any crime by which he
ncur an infamous punishment, or loss of life, until he be first indicted," &c.
nal of Federal Convention, 403.)
Hampshire proposed the same. (Journal of Federal Convention, 414.)
York proposed that for all crimes there should be a preliminary indictment of
d jury. (Journal of Federal Convention, 428.)
giuia, Rhode Island, and North Carolina were more general in their propositions,
ery decided. (Journal of Federal Convention, 419, 449–455.)
Congress of the United States, at its first session in March, 1789, proposed a
of amendments (of which the first ten were adopted) with this preface:
e conventions of a number of the States having, at the time of their adopting
onstitution, expressed a desire, in order to prevent misconstruction or abuse of
wers, that further declaratory and restrictive clauses should be added, and as
ling the ground of public confidence in the Government will best insure the
cent ends of its institution." (Journal of Federal Convention, 466.)

In the construction of all penal laws, the rule is to lean to that interpretation which favors liberty and against that which restrains it. In other words, to limit the power of Government against the accused, and extend the provisions for the liberty of the man.

Nothing can be more clear than that this canon should be applied in the construction of this amendment. The apprehensions of the people that their liberties might not be secure prompted the proposal and adoption of the amendments.

The construction given to them should be in aid of the purpose for which they were adopted. Proposed to restrain power and conserve liberty, we must so interpret them as to promote these objects. We must so legislate as clearly not to transcend the limitations on power, and as to leave no doubt that our law is within and not beyond the bounds prescribed. In this view your committee are satisfied that the bill they recommend does not violate this fifth amendment, but are not sure if a crime for which a man might lose his liberty could be tried without presentment on indictment, that it would not violate, as it would certainly go to the very boundary line prescribed by this important constitutional provision.

The early history of our judicial system and practice, as stated by Judge Story, indicates a judicial reluctance in the use of informations and a strict adherence to the necessity of a grand jury in all cases, except of common misdemeanors. Indeed, that learned judge declares that informations had not been formally put in practice even in case of misdemeanors by any act of Congress. He says:

"There is another mode of prosecution, which exists by the common law in regard to misdemeanors; though these also are ordinarily prosecuted upon indictments found by a grand jury. The mode, here spoken of, is by information, usually at the suit of the Government or its officers.

"An information generally differs in nothing from an indictment in its form and substance, except that it is filed at the mere discretion of the proper law officer of the Government *ex-officio*, without the intervention or approval of a grand jury. This process is rarely recurred to in America; and it has never yet been formally put into operation by any positive authority of Congress under the National Government, in mere cases of misdemeanor, though common enough in civil prosecutions for penalties and forfeitures." (3 Story on Constitution, sec. 1780.)

Your committee are of opinion that the natural construction of the fifth amendment gives sanction to the view that is proposed to be enacted in the bill they recommend. Its language is this: "No person shall be held to answer for a capital or otherwise infamous crime," &c. A crime which involves infamy or disgrace in any way to the citizen is clearly within its meaning. Death, deprivation of liberty, forfeiture of civil or political rights, are all infamous punishments; and the amendments as proposed by New Hampshire and Massachusetts looked to the infamy of the punishment rather than of the crime. The proposal of these States is the basis of this fifth amendment, and the conclusion that the States intended by it to provide that all crimes to which was attached any infamy in punishment should not be tried but on presentment or indictment, seems to be clear.

But when we look to the principles of Magna Charta and the common law from which our fathers, who were deeply versed in these fountains of our jurisprudence, derived the ideas embodied in this amendment, all doubt will be removed.

At common law, treason and all felonies were capitally punished. Upon judgment in these cases the convict was attainted; that is, "stained or blackened." "The law sets a note of infamy upon him" (4 Blackstone's Commentaries, 380); his lands were forfeited (Id., 381).

The benefit of clergy, allowed in many felonies, substituted burning in hand, whipping, imprisonment in jails or houses of correction, or transportation.

By statute in 1779 penitentiary houses were provided for such cases (4 Blackstone's Com., 370, 371). These substituted infamous punishments for the penalty of death were thus well known to the framers of this amendment, and it may be well concluded that all corporeal punishments, including deprivation of liberty, were regarded by them, as they were actually enacted to be in England, as substitutes for the capital penalty which attainted and made infamous the offender.

One other remark may here be pertinent. If an offense which is punished capitally, or by such corporeal inflictions, should be called misdemeanors in the act creating them, they would not be less infamous within the true meaning of this amendment than if they were called felonies. It is not the name, but the penalty attached to the crime that constitutes the infamy which is within the intendment of the amendment.

There can, therefore, be no doubt that all felonies at common law, being capital but clergyable, were infamous crimes within the meaning of the fifth amendment.

It only remains to be shown that deprivation of liberty was a penalty of such a nature as at common law and by Magna Charta were only to be answered upon indictment and presentment.

Your committee are satisfied that no prosecution by information, or otherwise than

sentment or indictment of a grand jury, was allowed by the ancient law of
ıd for any offense which deprived a man of life, liberty, or limb.
na Charta, chapter 38, has a provision which makes it a constitution for the
against which no law or act of the Government in any of its departments was
ted to avail. Magna Charta was the supreme law, and all laws in contraven-
ereof were of no effect. The language is explicit:
ıd we have granted unto them [that is, the people of the realm] on the other
hat neither we nor our heirs shall procure or do anything whereby the liberties
charter contained shall be infringed or broken; and if anything be procured
person contrary to the premises, *it shall be had of no force or effect.*" (2 Inst.,

na Charta thus became, in the polity of England, the fundamental and supreme
ıd all laws contrary thereto were, by it, declared to be of no force or effect. This
germ of our American doctrine which makes all legislation void, which is con-
o the Constitution of the United States.
twenty-ninth chapter of the Great Charter declares—
freeman shall be taken or imprisoned, or disseized of his freehold or his liber-
free customs, or be outlawed or exiled, or any otherwise destroyed, but by the
judgment of his peers or by the law of the land." (2 Inst., 45.)
l Coke, in commenting on this chapter, says, in respect to the first clause,
n or imprisoned," that "this hath the first place because the liberty of a man's
is more precious to him than all the rest which follow." (2 Inst., 45.) The
"or any otherwise destroyed" include death or loss of limb. (Ib., 48.) This
according to Lord Coke, that deprivation of liberty is a punishment more or
t as grievous as loss of life or limb. If, therefore, Magna Charta secured a man
nswer, unless on indictment, for a capital offense, the like protection should be
ıd in case of any crime involving loss of liberty, which is as precious as life, or
ıore so; for what is life without liberty? But Lord Coke does not leave this
rence. He interprets *per legem terræ* as due "process of law, that is, by indict-
ır presentment of good and lawful men." (2 Inst., 50.) This is obviously the
ıterpretation. For unless this be the meaning, then a capital offense could be
vithout indictment under this chapter of Magna Charta. But if this could not
e, which is clear, *pari ratione*, a crime which involves loss of liberty, and which
Coke says is more precious to a man than life itself, can only be tried upon in-
ent or presentment.
ncellor Kent (2 Kent's Com., 13) says:
may be received as a proposition universally understood and acknowledged
hout this country, that no person can be taken or imprisoned or disseized of
ehold or estate, or exiled or condemned or deprived of life, liberty, or property,
by the law of the land or the judgment of his peers. The words 'by the law
land,' as used originally in Magha Charta in reference to this subject, are un-
od to mean due process of law; that is, by indictment or presentment of good
wful men; 'and this,' says Lord Coke, 'is the true sense and exposition of
words.'"
ge Story (3 Story on Const., § 1783) quotes the same passage from Lord Coke
is sanction.
kstone says (4 Blackstone Com., 349):
ır law has therefore wisely placed this strong and twofold barrier of a present-
ınd a trial by jury between the liberties of the people and the prerogatives of
own.'"
alls trial by jury a trial *per patriam*—by the country. The country must accuse
the citizen can be held to answer, and must try before he can lose his life or
or limb. His person cannot be touched by punishment until the country calls
answer and condemns him on trial.
l Hale (2 Hale P. C., 150) says, "that in all criminal causes the most regular
fe way, and most consonant to the statutes of Magna Charta, cap. 29, 5 E., 3,
; 25 E., 3, cap. 4; 28 E., 3, cap 3; 42 E., 3, cap. 3, is by presentment or indict-
of twelve sworn men."
nty-four men, constituting the country, must concur, twelve on the grand and
on the petit jury, before the subject in England or the citizen here can be de-
of life or liberty.
ıt additional force is given to this argument from the other clauses of this
ment.
ır shall any person be subject for the same offense to be twice put in jeopardy
or limb." Liberty is not mentioned. But no constitutional expounder would
ick in the bark" as to hold that a man's liberty might be twice put in jeopardy.
hen in the succeeding clause it is said, "nor be deprived of life, liberty, or
ty without due process of law," no one would hold because the word "limb"
tted that he might be deprived of limb without such due process.

These phrases were used in the ancient law of England as including life, liberty, and limb.

When deprived of limb his liberty is impaired; that liberty which he derived from his Creator, to use life and limb free from the arbitrary power of government; and when deprived of liberty, the man loses his limbs during the period of imprisonment; and more, he loses a part of his life.

In all the books the loss of a limb is regarded as a permanent infamy put upon the offender.

And therefore, upon equal reason, the deprivation of liberty being a loss of all his limbs, and creating a penal servitude, puts an infamy upon him.

Taking the whole amendment, therefore, with its pre-historic relations and the clear purpose of its adoption by the States to secure the life and liberty of the citizen from all invasion, except upon the voice of his "country," the bill your committee propose is not only just but necessary.

The use of informations instead of the presentments and indictments of a grand jury has been abused in this country and in England.

Accusation is sometimes before conviction followed by circumstances of great hardship. The arrest of a party and his compulsory attendance at a court far from his home, with the expense of his witnesses, is oppressive, and sometimes ruinous to poor men.

In the language of Judge Story:

"From this summary statement it is obvious that the grand jury perform most important public functions, and are a great security to the citizens against vindictive prosecutions, either by the Government or by political partisans, or by private enemies." (3 Story on Const., § 1779.)

The grand jury therefore protects the citizen against false accusation as the petit jury does against unjust conviction. Both are essential to the liberty of the citizen.

The history of informations in England is instructive. It seems that informations were lawful at common law, per Lord Holt, 5 Mod. Rep., 459. They had been largely misused in the star-chamber court, and by reason of the oppressions of Empson and Dudley they produced a great outcry among the people, and finally, in 16 Chas. I, the star chamber was abolished.

The statute (H. 7, chap. 3), after reciting that grand juries would not indict, and thus convictions were prevented, allowed informations, but "to extend not to treason, murder, or felony, or to any other offense wherefore any person should lose life or member."

If the previous view as to the true meaning of the terms used in this act be correct, it would include loss of liberty. But even with this limitation, Lord Coke condemns it as oppressive, and adds quaintly, what is worthy of consideration in our times. "A good caveat to Parliament to leave all causes to be measured by the golden and and straight mete-wand of the law, and not to the uncertain and crooked cord of discretion." In the same connection he speaks of "presentment and trial by jury being the ancient birthright of the subject."

The above law of H. 7, was repealed by reason of the outrages committed by Empson and Dudley, by statute 1, H. 8, cap. 6.

Upon this act Lord Coke says that it was recited, as a reason for the repeal, "that many sinister and crafty, feigned and forged informations had been pursued against divers of the King's subjects," &c. And then he adds:

"The ill success hereof, and the fearful ends of these two oppressors, should deter others from committing the like, and should admonish Parliament that instead of this ordinary and pretious trial *per legem terræ*, they bring not in absolute and partial trials by discretion." (2 Inst., 5.)

After the Revolution informations were confined to cases of mere misdemeanors (4 Stephen's Com., 442); and this agrees with Judge Story's view already quoted (3 Story. Const'n, sec. 1789).

But one very striking limitation on the proceeding by information exists in England. Before the accession of William and Mary informations might be filed by the attorney-general or a master of the crown office; but by statute 425 W. and M., C. 18, it is recited in the preamble as follows:

"Whereas divers malicious and contentious persons have more of late than in times past procured to be exhibited and prosecuted informations in their Majesties' court of king's bench at Westminster, against persons in all the counties of England for trespasses, batteries, and other misdemeanors, and after the parties so informed against have appeared to such informations, and pleaded to issue, the informers do very seldom proceed any further, whereby the persons so informed against are put to great charges in their defense; and although at the trials of such informations, verdicts are given for them, or a *nolle prosequi* be entered against them, they have no remedy fo obtaining costs against such informers; and whereas divers persons are prosecuted in the said court of king's bench to outlawries but for debts, trespasses, and other misdemeanors, and there is no reversing such outlawries but by the personal appear-

ance of the persons outlawed, so that the persons arrested upon such outlawries (if poor) lie in prison till their deaths, but if able, it costs them very dear to reverse the same outlawries. For remedy whereof" (4 and 5 Wm. & Mary, C. 18).

This recital in that act nearly two centuries ago, may be, and as your committee is informed, truly repeated in this country at this day.

The statute then provided that the master of the crown office should not proceed by information without the express order of the court of king's bench, and without a recognizance by the prosecutor under which costs would be allowed the accused in case of his acquittal. (1 Chitty Cr. Law, 843, 834.)

Thus it appears that at this day, and ever since the act of William and Mary, no information in England will lie even in cases of misdemeanors, unless filed by the attorney-general himself, or by the master of the crown office, under the express order of the court of king's bench, and upon a recognizance by the prosecutor for costs.

It seemed to be supposed that the attorney-general of the crown—the solicitor-general may do so also (Wilkes Case, 4 Burrow's Rep.)—would not inform against the subject, and that the highest court in the realm would not order an information by the master of the crown office, except in a clear case and on well-ascertained grounds.

These proper and important limitations do not find place in the present law of the United States. The use of informations, therefore, in England do not afford any precedent for their use here, for there they are under limitations not prescribed here.

In England the attorney-general alone can *mero motu* file an information and a subordinate only by the order of the court of queen's bench. Here any subordinate district attorney may file an information of his own will or at the instigation of a private prosecutor.

Nor is there any force in any distinction between the forms of government in Great Britain and in the United States.

The principle which requires the preliminary accusation to be made by a grand jury is one which respects the right to life and liberty until the accusation be made against a man by the people of his vicinage.

The executive power, far removed in locality as well as in sympathy from the man, may be moved to act against him upon the partisan or personal prejudice of an enemy.

This may influence the district attorney when it would not effect the people. The district attorney appointed by the Executive *ex mero motu* may accuse a poor man, drag him from his distant home, and prosecute him upon groundless charges. This will not be done if, before he can be accused, his own neighbors shall pass upon the truth of the accusation. The executive power is dangerous to liberty under all governments, under a republic as under a monarchy, and it is as important to shield him against the partisan or personal prejudice which utters its accusation through an information filed by a subordinate district attorney here as it is in England. Let the grand jury of his country pass on the accusation, and his liberty will be safe. To dispense with it may, and will most probably, result in oppressive persecutions against the liberties of the people.

In looking over the long list of crimes in the Revised Statutes of the United States under the indiscriminate names of felonies and misdemeanors, your committee find most of them involve the liberty of the accused.

Imprisonment at hard labor or without it, in the penitentiary or jails, in houses of correction, &c., are the penalties prescribed by the statutes for crimes, some of which are called felonies, some misdemeanors, and some without the use of either of these terms.

Your committee, therefore, in the interest of the liberty of the citizens of the United States, believe it is best and safest for them, and will bring no detriment to the interest of the Government, to pass the bill reported, which is hereby recommended.

All of which is respectfully submitted.

Since the above report was made there have been two decisions of the Supreme Court bearing upon the questions discussed in the report, and which it is proper to advert to.

In Hentado *vs.* California (110 U. S. Reports, 516) the validity of a conviction by a court of the State of California for murder, tried upon an information, was fully considered.

The court (Harlan, J., dissenting) held that the words "due process of law," in the fourteenth amendment to the Constitution (the whole clause reading "nor shall any State deprive any person of life, liberty, or property without due process of law"), did not require the intervention of a grand jury in the accusation of a party charged with murder.

The reasoning of the learned court upon the common law authorities is contrary to the views expressed in the report of this committee in the last Congress in a great degree, and the court insists that the conclusions attributed to Lord Coke in that report by the authorities then cited go too far.

But Mr. Justice Matthews, in delivering the opinion of the court, rests the construction of the fourteenth amendment largely on the meaning of the same words in the fifth amendment, and he contrasts them with the words—

> No person shall be held to answer for a capital or otherwise infamous offense unless on a presentment or indictment of a grand jury.

He says:

> That article (fifth amendment) makes specific and express provision for perpetuating the institution of the grand jury, so far as relates to prosecutions for the more aggrivated crimes under the laws of the United States.

The court thus decides that while "due process of law" does not require a grand jury in all cases, yet an infamous offense does when charged in a court of the United States. What an infamous offense is was not considered or decided.

This decision was made upon the effect of the fourteenth amendment upon the laws of a State. It was made upon the construction of the words "due process of law." And your committee are willing to concede that, upon this single issue, the conclusion of the court is not unreasonable; that these words were not intended to control long-established methods of procedure in criminal cases pending in the State courts. Courts do not lightly decide laws to be unconstitutional, and the Supreme Court has not inclined to give further effect to the fourteenth amendment in its restriction upon State power than was clearly within the intent thereof.

And in the special case decided, the information was sanctioned by the State constitution, but was only allowed after examination and commitment by a magistrate, the accused being present, with aid of counsel, and the testimony, direct and on cross-examination, being reduced to writing. This the court said might be due process of law.

But it will be observed that the court does not pass upon the effect of the words "infamous offense." On the contrary, the court contrasts these words for which a grand jury is required to make accusation with the more indefinite terms "due process of law."

A later case has been decided by the same court upon the effect of these words "infamous offense."

In *Ex parte* Wilson (114 U. S. Reports, 417) the Supreme Court, by a unanimous decision, held that imprisonment for a term at hard labor was an infamous offense within the meaning of the fifth amendment. The reasoning of the court is very much in accordance with that in the report above quoted made by this committee in the last Congress.

Nor can the committee see any reason why the penalty of hard labor should be an essential ingredient in the infamy. The deprivation of liberty without the opportunity of labor is a more grievous punishment than imprisonment, whose tedious hours are relieved by active and healthful employment. To say that imprisonment with labor is infamous, but without labor is not, is in effect to make the labor the constituent of infamy and not the deprivation of liberty. And yet labor is at once the curse and blessing of mankind when it accompanies freedom.

In all cases the infamy consists in the penal compulsion which is akin

to involuntary servitude. To compel labor is a badge of servitude, but to compel a relinquishment of labor for his own use and that of his family, and to deprive of the right to locomotion and the free enjoyment of all that constitutes liberty, though there be no requirement of work, are badges of slavery on the condemned man which brand him with infamy.

Your committee think that upon a review of the report of the last Congress and of the decisions made since it was presented, the wise conclusion is to hold that even if imprisonment is not the ingredient which makes the infamy in the sense of the Constitution, yet it is a matter of such grave doubt at the best as to justify the passage of the bill referred to this committee and which saves from trial every person for any offense which threatens his life or liberty, unless the accusation is sanctioned by a grand jury of the country.

The bill is reported back with a recommendation that it do pass.

O

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 632.

# ES OF CLAIM AGENTS, ETC., IN PENSION CASES.

FEBRUARY 23, 1886.—Laid on the table and ordered to be printed.

ASWELL, from the Committee on the Judiciary, submitted the following

## REPORT:

[To accompany bill H. R. 76.]

*mmittee on the Judiciary, to whom was referred the bill (H. R. 76) ting to claim agents' and attorneys' fees in pension cases, submit the wing report:*

only substantial difference between the bill and the law as it now is found in the section which would repeal the present law pro- for the payment of the attorneys' fee in claims filed between the 1878 and 1884 through the pension agency.

ng the period referred to the fee in pension claims was fixed by at $10, payable whether the claim was admitted or not. Under w it had become the practice of agents, to a large extent, to col- part or all of the fee in advance of the adjudication, and often he claim was without merit. The collection in advance often re- , too, in an abandonment of the claim on the part of the agent, and fortunate applicant had no remedy left except an appeal to mem- f Congress.

put an end to this practice, Congress passed a law in 1884 pro- g the agent from making collections in advance. In this enact- a form of contract was prescribed for both parties to sign, which ts the agent to receive in some cases as high as $25, contingent, er, upon success. This contract provides that the stipulated fee, h portion thereof as the Commissioner of Pensions may direct, be retained from the pension allowed and paid by him to the

er this law a large number of contracts have been executed in the filed between the years 1878 and 1884. The mischievous prac- collecting fees before the claim is admitted has been wholly aban- under the penalties inflicted by the act of 1884, and the form of ure settled, both parties conforming to the regulation with ap- satisfaction.

pending bill seeks to repeal that part of the law of 1884 which es for the payment of the fee stipulated in the contract in claims etween the years 1878 and 1884, through the Commissioner of s, notwithstanding the rights which we think have become under the contracts and the obligation on the part of the Gov- t to retain from the pension granted the stipulated fee for the

We think it would be unfair at this late day, if not a violation of rights acquired and of good faith on our part, after having divested the agent of his right to receive pay in advance, especially in the claims which he was already prosecuting, to repeal the law which authorized the execution of the new contracts which he had been induced to sign under the provision that the fee should be retained by the Commissioner for him, and refuse to carry out the agreement on our part. We think a change of this character would cause great annoyance to the Pension Department, and work an irreparable confusion, both for the claimant and the agent, in which the former would be the loser in the end, while Congress would be placed in the unenviable position of having restricted the practice in pension cases to a form prescribed at length in the law itself, and then recede from its own undertaking, regardless of the rights of parties who may have become involved.

A committee of the Grand Army of the Republic, representing the applicants for pensions, in a letter addressed to the chairman of this committee, under date of January 20, 1886, uses the following language in approval of the law as it now exists:

> This law is entirely satisfactory to the claimants. They do not object to the payment of that fee; it is far better for them to pay it when they have had their claims successfully prosecuted than to pay the sum of $10 with no assurance of success, and they are entirely willing to pay it, although these cases were filed between 1878 and 1884. * * * We address you this letter because House bill 76 is pending before your committee. We do not think that such a bill ought to pass.

In view of these facts we report this bill back to the House, and recommend that it lie upon the table.

O

H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 633.

# JUDICIAL DISTRICTS IN TEXAS.

BRUARY 23, 1886.—Referred to the House Calendar and ordered to be printed.

CULBERSON, from the Committee on the Judiciary, submitted the following

## REPORT:

[To accompany bill H. R. 4841.]

he Committee on the Judiciary have had under consideration House 2435, 2462, 4841, and 5719, and have come to the conclusion that se bills 2435, 2462, and 5719 ought not to pass, but recommend the age of House bill 4841 with an amendment inserting the word enison" in the blanks when they occur in said bill No. 4841.

he subject-matter of the bills reported back to the House and the recommended by the committee relate to the jurisdiction of the eral courts for the western district of Arkansas over the Chickasaw part of the Choctaw Nations in the Indian Territory, and the estab- ment of a new division in the eastern and northern judicial districts he State of Texas.

ll persons representing conflicting or other interests affected by the nges proposed in existing law, who desired to do so, have been per- ted to submit their views to the committee, and, after an earnest patient investigation, the committee reached the following conclu- s:

) That all of the Chickasaw Nation in the Indian Territory and a part he Choctaw Nation, hereafter described, should be detached from the tern district of Arkansas and attached to the eastern and northern cial districts for the State of Texas.

) That a part of the Choctaw Nation and all of the Chickasaw Na- in the Indian Territory should be attached to the northern judicial rict, and said Territory, together with the counties of Grayson, Cook, Montague, in the State of Texas, should constitute a new division he northern judicial district.

) That the counties of Lamar, Delta, and Fannin, in the State of as, ought to be detached from the northern judicial district and at- ed to the eastern judicial district of the State of Texas, and said ties and the county of Red River, in said State, together with the nce of the Choctaw Nation, detached from the western judicial dis- of the State of Arkansas, should constitute a new division of the ern judicial district of Texas.

) That terms of the circuit and district courts of the United States he eastern judicial district of the State of Texas should be held he city of Paris, in the said county of Lamar, and that all pro- , civil and criminal, cognizable before said courts, respectively, ed against persons residing in the said counties of Lamar, Fannin, a, and Red River, should be returnable to said courts to be held at

said city of Paris, and that the district and circuit courts of the United States to be holden at Paris should have original and exclusive jurisdiction of all offenses against the laws of the United States now or which may hereafter be of force in the Indian Territory, committed within that portion of the Choctaw Nation attached to the eastern judicial district for the State of Texas.

(5) That terms of the circuit and district courts of the United States for the northern judicial district for the State of Texas as should be held at the city of Denison, in the said county of Grayson, and that all process, civil and criminal, cognizable before said courts, respectively, issued against persons residing in said counties of Cook, Grayson, and Montague, should be made returnable to the said courts, to be holden at the city of Denison, and that the courts to be holden at Denison should have original and exclusive jurisdiction of all offenses against the laws of the United States committed within the Chickasaw Nation and that part of the Choctaw Nation attached to the northern judicial district for the State of Texas.

Some of the controlling reasons that induce the committee to arrive at the foregoing conclusions will now be briefly stated.

The Federal court for the western judicial district for the State of Arkansas, held at the city of Fort Smith, now exercises jurisdiction over eighteen counties of the State of Arkansas, and over the whole territory of the Indian nations, occupied by the five civilized nations, viz, Cherokees, Creeks, Seminoles, Choctaws, and Chickasaws. The Chickasaw and Choctaw Nations lie north of the State of Texas and contiguous thereto; and their social and commercial intercourse are with the people of North Texas, and have always been since the earliest settlement of the respective countries.

The Chickasaw and that part of the Choctaw Nation which is proposed to be attached to Texas for judicial purposes have no commercial intercourse with the people of Arkansas. The average distance of travel from the Chickasaw Nation to Fort Smith, where the Federal court is held, is estimated to be not less than 250 miles by land, or 500 miles by railroad; and the same may be said of the southern part of the Choctaw Nation, which is proposed to be attached to Texas. The loss of time, expense, and inconvenience incurred by litigants, witnesses, and other persons residing in these localities who may be required to attend the court at Fort Smith, strongly impress your committee that it is the duty of Congress to provide more convenient and accessible places for holding the courts which exercise jurisdiction over the Territory.

There is, besides, no doubt in the minds of the members of your committee that the remoteness of the territory proposed to be attached to Texas from Fort Smith, where the courts are now held, encourages violations of the laws of the United States. The difficulty of procuring process aids offenders in escaping arrest, and, if arrested, the inconvenience, expense, and loss of time to be incurred by witnesses in attending the court at Fort Smith often induce witnesses to avoid the duty and permit the law to go unexecuted. The people of this territory sought to be attached to Texas are practically denied the means of enforcing the law and maintaining order. There is another consideration in this respect which has attracted the attention of the committee, and doubtless will secure the attention of Congress. We allude to the enormous expense of the Federal courts at Fort Smith. No charge of improper conduct on the part of the officers has been brought to the attention of the committee, and we believe that the expenditure of public money in

he western district of Arkansas in such unusual amounts may be proprly attributed to the large territory over which the courts exercise urisdiction and the inaccessibility of Fort Smith by railroad and otherrise to a large portion of that territory, and especially to that section f the territory proposed to be attached to Texas.

The committee believe that, while the people would be greatly beneited by the proposed change of the law, in respect to their convenience, oss of time, expenses, and surer means of enforcing the laws and preerving order, the Government would save large sums of money now nnecessarily if not uselessly expended. By reference to the report of he Attorney-General it appears that the expenses of the United States ourts for the western district of Arkansas for the year 1882, and paid n the fiscal year 1883, amounted to $156,943.20—nearly $50,000 more han was expended in any other judicial district in the United States or the same time. In the eastern district of Arkansas only $48,075.67 ras expended during that year, and that sum is not far from the average mount expended by all the other districts. It is, therefore, apparent hat the bulk of the expenditures in the western district of Arkansas ras on account of the jurisdiction of the courts over the Indian Terriory. There can be but little doubt in the minds of any one who will xamine the map and consider the lines of travel from the remote secions of the Indian Territory to Fort Smith, that much of such expendtures is wholly unnecessary and will be avoided by the changes proosed by the substitute reported by the committee.

The committee deem it proper to call special attention to the followng extract from the Report of the Attorney-General, page 17, which is s follows:

JAIL AT FORT SMITH, ARK.

The district court at Fort Smith, Ark., has jurisdiction over many criminal offenses n the Indian Territory. A large number of prisoners are, therefore, necessarily held t that place. The county has no jail. They are, therefore, confined in the basement f the abandoned Army barracks, now used for court purposes. Officers of this Dearteent who have recently visited Fort Smith report that the two rooms, in which re constantly crowded from 50 to 100 prisoners, are totally unfit for use as a jail, beng damp and unhealthy. Nothing separates the foulest murderer from the detained vitness. Young and old, innocent and guilty, are all crowded together. Although a hysician is in constant attendance, prisoners who have entered this temporary jail n apparent good health have, after a few months' confinement, been released almost hysical wrecks.

It would seem from the foregoing extract that considerations of humanity also call for a change in the manner in which the laws of the United States are executed in the Indian Territory. It is true that the Attorney-General recommends that an appropriation should be made to build a jail at Fort Smith, as, he alleges, the county will not probably erect one for several years to come. If the appropriation is made, and proper accommodations should be provided, the suffering attendant upon prison life at Fort Smith may be greatly mitigated, but the inability of the court to administer the law in all cases with that promptness required in criminal causes will still exist.

It was in proof before your committee that the court at Fort Smith was in actual session 297 days during the last year, and, notwithstanding the great labor performed by the judge of that court, the Attorney-General reports that "from 50 to 100 prisoners are constantly crowded nto the two rooms used as a jail." This fact shows that the court at Fort Smith is overworked and overloaded with business, and furnishes a strong argument in favor of the changes proposed by the bill reported. It is true that your committee heard no complaint from the judge of that

court on account of the extraordinary amount of labor he is required to perform. On the contrary, your committee have been assured that he is uncomplaining and quite content to perform such an amount of labor; but, however commendable this may be, your committee do not believe that from 50 to 100 prisoners should be "constantly crowded into two rooms in the basement of abandoned Army barracks," subject to the suffering and perils described by the Attorney-General of the United States, there to await a trial before a court so greatly overburdened with business.

During the investigation of this subject by your committee, representatives of the interests of the Chickasaw and the southern part of the Choctaw Nations have appeared before it and strongly urged the necessity and propriety of some change in the Federal jurisdiction over the Indian Territory. The legislatures of both these nations have adopted resolutions approving the plan of attaching this section of the Indian Territory to Texas. It seems from the evidence before your committee that the people of the territory proposed to be attached to Texas are practically unanimous in favor of the changes proposed, for like reasons and considerations which have brought your committee to the conclusion that they ought to be made, and as early as practicable.

The committee further submit upon this branch of the subject that the changes contemplated by the bill here reported, if adopted by Congress, will not reduce the territory or population over which the court at forth Smith now has jurisdiction even to an average of territory and population usually assigned to judicial districts. It will still retain and exercise jurisdiction over eighteen counties in the State of Arkansas, and over the Cherokee, Seminole, and Creek Nations, and the northern half of the Choctaw Nation.

The propositions before the committee not only contemplate a readjustment and change of Federal jurisdiction over the Chickasaw and part of the Choctaw Nations, but a readjustment and change of Federal jurisdiction as respects the counties of Red River, Lamar, Fannin, Delta, Grayson, Cooke, and Montague, in the State of Texas. In view of what the committee believed to be an urgent necessity to change the Federal jurisdiction, as respects the Indian Territory, and in order to adopt the best plan to effect that object properly, it became necessary to ascertain where the court should be located in Texas which should exercise that jurisdiction, and whether in selecting such location the claims of the people residing in the counties named for a more equitable and convenient arrangement of Federal jurisdiction might not at the same time be accommodated.

It appeared to your committee, in view of the area of population and business relatively of the eastern and northern districts of the State of Texas, that those districts were unequally and inequitably organized. The labor required of the judge of the northern district is much greater than that required of the judge of the eastern district. It was therefore deemed unjust to the people of that district and to the judge to add additional territory to it by attaching the Indian Territory, unless a readjustment of the eastern and northern districts could be so far effected as to secure a reasonable equalization of the labors of the judges, and at the same time promote the convenience of the people who reside in the counties referred to.

The committee believe that the only just and fair method in which to adjust and settle the various conflicts of interests and convenience which have arisen out of the subject-matter before it is set forth in the 2d and 3d conclusions of the committee as hereinbefore stated. That

method will largely promote the convenience of the people who reside in the counties of Red River, Lamar, Delta, Fannin, Grayson, Cooke, and Montague, without injury to any interest proper to be considered when providing courts for the convenience of the people. It leaves the northern district with sufficient population and business to employ all the time of the judge of that district, and adds no more to the labors of the judge of the eastern district than should be added. It tends to equalize the labors of the officers of the districts. It gives to the Indian population the best facilities for enforcing law and preserving order which can be suggested, and fixes the locations of the courts which are to exercise jurisdiction over them at cities where they trade, and where their social, commercial, and business relations are already formed. The committee deem it proper to say that in selecting the places at which to hold the courts it was guided alone by considerations involving the convenience of the greatest number of people who are to be affected by the jurisdiction of the courts, if the measure proposed becomes a law.

The passage of the bill 4841 is recommended to the House, and that bills numbered 2435, 2462, and 5719 do lie upon the table.

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 634.

# ONSTRUCTION OF BRIDGE BY NASHVILLE, JACKSON AND MEMPHIS RAILROAD COMPANY.

FEBRUARY 23, 1886.—Referred to the House Calendar and ordered to be printed.

r. CRISP, from the Committee on Commerce, submitted the following

## REPORT:

[To accompany bill H. R. 2309.]

*e Committee on Commerce, to whom was referred the bill (H. R. 2309) to give the assent of Congress to the construction of a bridge by the Nashville, Jackson and Memphis Railroad Company over the Tennessee River, have had the same under consideration, and report as follows:*

The committee submit certain amendments which will make the bill nform to the suggestions of the Secretary of War, and which are acptable to the railroad company. As amended, the bill contains all e requirements and limitations usual in such cases, and the committe recommend its passage.

*Amendments proposed by the Committee on Commerce to House bill No. 2309.*

Between the words "that" and "the," in the third line, first section, insert the rords "the assent of Congress is hereby given to."

In the fifth line, first section, strike out the words "be, and is hereby, authorized."

In the second and third lines, third section, strike out the words "not be less than ne hundred and sixty-four feet in length in the clear" and insert the words "be of ach width and height above the water as may be prescribed by the Secretary of Var."

In the third section strike out fifth and sixth lines and seventh line to the word and."

In third section, eleventh and twelfth lines, strike out the words "the spans shall ot be less than one hundred and sixty feet in the clear," and insert the words "the ans shall be of such width and height above the water as may be prescribed by the ecretary of War."

In third section, strike out all after the word "river," in fourteenth line, down to e word "*Provided*," in the seventeenth line.

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CONGRESS, Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 635.

# ACON LIGHTS ON ISLANDS IN MOOSEHEAD LAKE, MAINE.

FEBRUARY 23, 1886.—Laid on the table and ordered to be printed.

LARDY, from the Committee on Commerce, submitted the following

## REPORT:

[To accompany bill H. R. 1018.]

*Committee on Commerce, to whom was referred the bill (H. R. 1018) for erection of beacon lights on islands in Moosehead Lake, Maine, beg ve to report:*

at they have had such bill under consideration, and it appearing Moosehead Lake is wholly within the State of Maine, without any from or outlet to any other State, and the committee holding that, rding to the true interpretation of the grant of the commercial r, in the Constitution, to Congress, it does not extend to or em- e the purely internal commerce of a State, they therefore report bill adversely, and recommend that it do lie on the table.

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I CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 636.

# TRANSFER OF A CERTAIN APPROPRIATION.

UARY 23, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

HATCH, from the Committee on Agriculture, submitted the following

## REPORT:

[To accompany bill H. R. 4083.]

he Committee on Agriculture, to whom was referred the bill (H. R. ;) to empower the Commissioner of Agriculture to transfer a certain ropriation, have had the same under consideration and respectfully ort the same back to the House with the recommendation that it do s.

he following letter from B. F. Fuller, chief of division of accounts, of the Department of Agriculture, fully explains the nature of the isaction and the necessity for the passage of this bill.

UNITED STATES DEPARTMENT OF AGRICULTURE,
DIVISION OF ACCOUNTS,
*Washington, D. C., January* 18, 1886.

ereby certify that the $1,800.16 of the account of Norman J. Colman, Commis- r of Agriculture, for the month of April, 1885, that was disallowed by the First troller of the United States Treasury, was paid to laborers employed in the De- nent, and their names were on the pay-rolls when Commissioner Colman entered his duties as Commissioner, and the three first days of the month for which Colman paid, was under the administration of George B. Loring, and that the opriation for the "purchase and distribution of seeds, &c.," from which the ers should have been paid (as decided by the Comptroller), was exhausted; that ay-rolls were certified to by E. A. Carman, chief clerk of the department, and not certified to or approved by Commissioner Colman.

B. F. FULLER,
*Chief of Division of Accounts, &c.*

he statement and explanation is sustained by the acting first audi- of the Treasury Department in a letter dated February 20, 1886, ad- ssed to the chairman of the Committee on Agriculture, in which he s:

reply to your letter of the 17th instant in relation to a disallowance of $1,800.16 he accounts of Hon. N. J. Colman, Commissioner of Agriculture, for expenditures ccount of laboratory, second quarter, 1885, I have the honor to submit the follow- statement:

e specific ground for the above named disallowance was that the vouchers, num- d 4, 5, and 10, of the account, which were severally approved by the then chief and acting commissioner, E. A. Carman, covered expenditures incurred in the ng up and distributing beet and sorghum seeds, and were therefore properly geable to the appropriation for the purchase and distribution of valuable seeds,

e balance of the appropriation for the purchase and distribution of valuable seeds, remaining unexpended at the time the disallowance was made, appears from the rds of this office to be $18.18.

Your committee are satisfied that the action of E. A. Carman, chief clerk and acting commissioner, was without the knowledge or consent, sanction or approval of the Commissioner; that such action occurred immediately after the appointment of the Commissioner, and during his absence from the city, and under all the circumstances was unavoidable on his part.

They therefore recommend the passage of the bill.

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CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 637.

# TRANSFER OF UNITED STATES BARRACKS.

RUARY 23, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

FINDLAY, from the Committee on Military Affairs, submitted the following

## REPORT:

[To accompany bill H. R. 985.]

*Committee on Military Affairs, to whom was referred House bill 985, have had the same under consideration, and beg leave to report:*

That the law governing the subject is to be found in the act of Con-ss approved July 5, 1884, and the proclamation of the President, ued in pursuance thereof, under date of August 22, 1884. By virtue this act and proclamation the military reservation in question was ced under the control of the Secretary of the Interior for future dis-ition, subject, however, to the right of Congress to authorize such a nsfer of the property as is contemplated by this bill.

The Secretary of the Interior, in a letter under date of February 2, 6, to the chairman of the Committee on Military Affairs, herewith ended, expresses the opinion that if Congress sees fit to make the posal of this reservation as proposed by the bill, there is no valid son why it may not be done. None such has been presented to the mittee, and they therefore recommend that the bill do pass.

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DEPARTMENT OF THE INTERIOR.
*Washington, February 2, 1886.*

IR: I have the honor to acknowledge the receipt, through reference of Hon. J. L. Findlay, of a copy of a House bill, 985, authorizing the Secretary of War to nsfer the United States barracks at Baton Rouge, La., to the Louisiana State Uni-sity and Agricultural and Mechanical College at said place, for educational pur-es, with a request for the views of the Department as to the policy and propriety making the transfer.

This letter, with copy of the bill inclosed, was referred to the Commissioner of the eral Land Office for report, a copy of which report, dated the 1st instant, is here-inclosed.

his report contains the information afforded by the records of this Department, ed for by said letter.

Congress desires to make the disposal of these lands proposed in House bill 985, Department knows of no valid reason why it may not be done, and will interpose bjection thereto.

would respectfully call your attention to the propriety of the Commissioner's gestion that wherever the word "War," occurs in the bill it should be stricken and "Interior" inserted, as these lands are now under the direction of the In-or Department.

Very respectfully,

L. Q. C. LAMAR,
*Secretary.*

HAIRMAN COMMITTEE ON MILITARY AFFAIRS,
*House of Representatives.*

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
*Washington, D. C., February* 1, 1886.

SIR: I have the honor to acknowledge the receipt, by reference from the Department for report, of a letter from Hon. John V. L. Findlay, subcommittee on Military Affairs, dated January 27, 1886, inclosing, for the views of the Department thereon, copy of House bill No. 985, which provides for the transfer of the relinquished military reservation of Baton Rouge barracks and grounds, Louisiana, to the Louisiana State University and Agricultural and Mechanical College at Baton Rouge, for educational purposes.

In view of the President's proclamation, dated August 22, 1884, transferring said reservation to the Secretary of the Interior for disposal under act of July 5, 1884 (23 Stats., p. 103), Mr. Findlay asks whether any further legislation is necessary to enable the Secretary of the Interior to make the transfer proposed by said bill, and, if so, then he desires the views of the Department as to the policy and propriety of making the transfer.

In reply, I have the honor to report that as said act of July 5, 1884, provides only for survey, appraisal, and sale of such abandoned military reservations, further legislation must be had in order to admit of such transfer of the United States property as is proposed in this case, and as the reservation is at present in the custody of the Interior Department, the bill, if passed, should be amended by striking out the word "War" wherever it occurs, and inserting the word "Interior" in lieu thereof, so that authority will be conferred upon the Secretary of the Interior to make the transfer.

According to the official plat of township 7 south, range 1 west, Greensburg district. Louisiana, said reservation contains an area of 44.17 acres, but there are no data in this office as to the value of the property. There is no adverse interest to the Government in these lands, as shown by the records of this office, and the question is simply one as to the propriety of making such disposition as the bill proposes. The policy involved in such a transfer is one for the discretion of Congress, and does not come within the proper scope of my official duties to advise upon. The bill and letter are herewith returned.

Very respectfully,

WM. A. J. SPARKS,
*Commissioner.*

Hon. L. Q. C. LAMAR,
*Secretary of the Interior.*

■H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
_st Session. } { No. 638.

# MOSES B. WALKER.

RUARY 23, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

FINDLAY, from the Committee on Military Affairs, submitted the following

## REPORT·

[To accompany bill H. R. 1802.]

*Committee on Military Affairs, to whom was referred the bill (H. R. 802) for the relief of Moses B. Walker, late colonel of the Thirty-first Ohio Volunteers, have had the same under consideration, and report as follows:*

That this officer appears to be charged on the books of the Treasury partment with a balance due of $550. It appears from his affida- that General O. M. Mitchell handed him a check for $300, to be plied for the benefit of a meritorious officer in indigent circumstances, poorly off, indeed, to buy his military outfit. To this sum the colo- added $50 for the same purpose. Subsequently, in Cincinnati, when regiment was on its way to Kentucky, a subscription was taken up reimburse this money, and was generously responded to by the citi- s, who paid the full amount. General Mitchell afterwards furnished colonel with $250 for the necessary expenses of the regiment, all of ch money was legitimately expended, and vouchers taken for the e. These vouchers, however, without fault of the claimant, were sequently lost.

General Mitchell, on December 26, 1865, appears to be charged with alance due the United States of $8,499. In reduction of this bal- e his representatives, after his decease, presented receipts of Colonel alker for $550, and this sum stands charged against the colonel be- se it appears to have been allowed as a credit in the settlement of general's accounts.

Upon what theory the money advanced to Colonel Lister, and subse- ntly refunded by a subscription of the citizens of Cincinnati, can be de the subject of a charge against Colonel Walker is inexplicable to committee.

The check given by General Mitchell, presumably drawn against Gov- ment funds, was intended for the benefit of Colonel Lister, and was applied, Colonel Walker having no connection with the matter ex- t as the bearer of the check to the bank as the depository of the ds.

The committee is very clearly of the opinion that as to this item of O the colonel should have the relief he seeks. As to the second of $250 advanced by General Mitchell out of Government funds, which he was responsible, the question whether he or his represen-

tatives were entitled to have this sum credited in the settlement of his accounts does not admit of doubt, and this, of course, charges Colonel Walker as a debtor to the United States for this amount. Should he be relieved from the payment of it?

A portion of this fund was expended for teams and forage, for shoeing horses and mules, repairs to wagons, &c., and the whole of it for such items of service as were indispensable. Vouchers were taken for each item, but these vouchers were lost as one of the unavoidable casualties of war.

Your committee are of the opinion that it would be a hardship to enforce payment of this item, and recommend, therefore, that the bill do pass.

H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 639.

# MILITARY TELEGRAPH LINE.

RUARY 23, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

VIELE, from the Committee on Military Affairs, submitted the following

## REPORT:

[To accompany bill H. R. 4626.]

ıe Committee on Military Affairs, to whom was referred House bill 5, respectfully report that they have examined into the subject of proposed legislation, and find that the United States Signal Service, onnection with local and private telegraph lines, is extended along greater portion of the Atlantic coast. That the most southerly sta- ı now established on the Florida coast is at a point known as San- l. That 150 miles south of Sanford on the east coast of Florida is nt Jupiter, a well-known landmark, at which point there is a light- se. That a signal station at this point connected with Sanford by legraph line will give information along the whole coast of the con- on of weather existing in the Gulf of Mexico and will give due and ly notice of the gathering of violent storms in the Gulf and the st Indies, thus warning vessels in season to provide for avoiding e storms by changing their course and save the possibilities of dis- r and consequent loss of life and property. By day and by night sels passing along the coast off Point Jupiter can distinguish the sig- s and know just what atmospheric phenomena are being developed the Gulf of Mexico and govern themselves accordingly. In addi- ı to this the information obtained will add largely to the means of Signal Service for forecasting the weather throughout the United tes, and thus prove of large general and national as well as of lo- value.

or these reasons your committee recommend the passage of the bill, report the same for that purpose favorably to the House.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 640.

# MUSTER AND PAY OF VOLUNTEER FORCES.

FEBRUARY 23, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. CUTCHEON, from the Committee on Military Affairs, submitted the following

## REPORT:

[To accompany bill H. R. 1171.]

*The Committee on Military Affairs, to which was referred the bill (H. R.* 1171) *to amend an act entitled "An act to provide for the muster and pay of certain officers and enlisted men of the volunteer forces," approved June* 3, 1884, *would report:*

That the only change made by this bill from existing law is, that the present law provides that in all cases arising under it—

Any person who was duly appointed and commissioned, whether his commission was actually received by him or not, shall be considered as commissioned to the grade therein named from the date when his commission was actually issued by competent authority, and shall be entitled to all pay and emoluments as if actually mustered at that date.

The present bill changes the date from which the soldier or officer shall be considered as commissioned to—

The date from which he was to take rank under and by the terms of his said commission: *Provided,* That at the date from which he was to take rank by the terms of his said commission, he was actually performing the duties of the grade to which he was so commissioned.

The remaining *provisos* remain as in the present law.

A bill precisely similar in import was favorably reported from this committee in the last Congress, but was not reached in the House for action.

The practice in regard to the dating of commissions during the late war varied in different States. In some, the practice was to date the commission from the occurrence of the vacancy, and then the date of rank and the date of issue were the same. In others, the date of issue was of the actual date of the signing and sealing of the commission, and a clause was inserted "to rank as such from ———," inserting the date, usually, from which the vacancy existed. In most cases this would also be the date from which the promoted officer or enlisted man had performed the duties of the higher grade to which he was commissioned.

During active campaigns it was a very common thing for a sergeant to command a company, or a captain or major to command a regiment. For instance, a vast number of vacancies which occurred early in May, 1864, during the Wilderness and Spottsylvania campaigns, were not only not filled, *but the recommendations* even for filling them were not

made until the army came to a state of comparative rest in front of Petersburg, late in June. Then, when the commissions came, many of those for whom they were designed were absent in hospital, others were prisoners of war, others still were absent on detached service, so that the commissions were long in reaching them. Oftentimes, when the commissions were actually received, it was impossible to reach the mustering officer. Meanwhile, and from the date from which they were to take rank, the officer or soldier was performing all the duties, bearing all the responsibilities, and incurring all the dangers of the higher grade, and beyond all question meriting and earning the higher rank and the larger pay.

Your committee believe that the bill is so guarded and limited that no one can get any more than simple justice under it, and that, too, justice long deferred, and recommend that it do pass.

=H CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 641.

# \YMENT OF POSTAL NOTES AT MONEY-ORDER OFFICES.

EBRUARY 23, 1886.—Referred to the House Calendar and ordered to be printed.

J. H. JONES, from the Committee on the Post-Office and Post-Roads, submitted the following

## REPORT:

[To accompany bill H. R. 5878.]

'he Committee on the Post-Office and Post-Roads, to whom was re-:ed the bill (H. R. 4677) to authorize the payment of postal notes at r money-order office, and for other purposes, beg leave to submit the ompanying substitute therefor and recommend its passage.

Section 1 of this bill amends section 1 of the act of March 3, 1883, ich authorized the issue of postal notes, by adding a provision that stal notes shall be payable at any money-order office authorized by ) Postmaster-General to pay such notes, and an additional provision powering the Postmaster General, in his discretion, to designate st-offices for the issue of postal notes only, independently of money lers. These provisions will widely extend the usefulness of the stal note, and in the opinion of the Post-Office Department, after an perience of nearly two years and a half, will render them more con-ient and give greater satisfaction to the public.

'he first provision will obviate all the difficulty now encountered ough the mistaken payment at one money-order office of a postal e drawn upon another (payments which now occur in considerable nbers), and would furthermore save the clerical labor now required post-offices of designating the office of payment on the face of the e, of recording the name thereof on the corresponding stub, and of orting the same to the Post-Office Department in the postmaster's ekly statement of money-order business. It would likewise facilitate e payment of postal notes, inasmuch as it would no longer be neces-ry for the paying officer to examine carefully each note presented to e that it is properly drawn upon the money-order office of which pay-ent is demanded. This provision was recommended by the Superin-ndent of the Money-Order System in his last annual report, and by e Postmaster-General in these words:

'he argument he (the Superintendent) adduces in support of his further recom-ndation that postal notes should be made issuable to bearer and payable at any ney-order office so satisfactorily enforces it that addition is unnecessary. It is to oped that the public will not long be forced to wait the grant of this improve-it in their service.

'he second provision extends to post-offices situated in the smaller ns and villages where, for lack of post-office capital, a general money-ter business cannot be maintained, a medium of exchange greatly eded, and in many localities urgently demanded. Sparsely settled *nmunities where there are no* banks will thus be supplied with a con-

venient means of remitting small sums to business centers. The responsibility of the postmasters at such offices will be increased simply in the face value of the small number of blank postal notes intrusted to their charge, a responsibility which it is thought can be readily provided for by means of small additional bonds. The Post Office Department will not need to undertake to supply such smaller offices with funds, because they are simply to be granted the privilege of issuing postal notes, not of paying them, the only privilege which the business necessities of their communities require.

Section 2 of the bill re-enacts the existing statute (section 5463, Revised Statutes), and extends its provisions to postal notes as well as to money-orders issued in a foreign country for payment in the United States.

The necessity for this legislation lies in the fact that there is nothing specific in existing law that subjects a person who forges the signature upon a money-order issued in a foreign country for payment in this country to trial, and if found guilty, to punishment. A case of this nature occurred in the latter part of 1883, at Bay City, Mich., where the United States attorney decided that the forger of a Canadian money order was not punishable under United States statutes, and where it was necessary to make complaint and prosecute the forger under State laws. A similar case (of a British order) occurred later in New York City.

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ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 642.

# OF KICKAPOO DIMINISHED RESERVATION IN KANSAS.

UARY 23, 1886.—Referred to the House Calendar and ordered to be printed.

ORM, from the Committee on Indian Affairs, submitted the following

## REPORT:

[To accompany bill H. R. 5879.]

*mmittee on Indian Affairs, to whom was referred the bill (H. R. to provide for the sale of the Kickapoo diminished reservation in sas, having had the same under consideration, submit the following rt:*

lands belonging to the said Kickapoo Indians, in Kansas, con- ),273 acres, and are owned in common under the fourth article of aty of June 28, 1862, and are located in Brown County, in said 5 miles north of the Union Pacific Railroad; and 40 miles from y of Atchison. The land is fertile and valuable. It is stated any of these Indians have comfortable houses, and have several aring apple and peach orchards. Yet, notwithstanding these ages, the Indians derive but little from these lands. There are ent only two hundred and thirty-four Indians residing upon this ation, and whilethey wear the American dress and speak the En- anguage, they are indolent and to a great extent unable to keep h the march of civilization around them. This is not said to dis- these people, but it is believed that the same number of white owning these lands in common would succeed no better. Their present a very unfavorable contrast to those of their enterprising neighbors, who pay all the taxes and bear all the burdens of local ment. This reservation standing in such marked contrast to the ltivated farms which surround it, seems to be a blotch on the face country, which it is believed would be removed by the provisions bill.

said that some of these Indians have already gone to the Indian ry, and others spend most of their time on the Kickapoo Reserv- n said Territory. This latter reservation is fully described in the section of the bill, and contains 196,565.38 acres. This reserv- vas set apart by the President of the United States, by Executive dated August 15, 1883, for the permanent use and occupation of ckapoo Indians. That in 1883 there were four hundred and en Kickapoo Indians residing on said reservation.

committee have reported a substitute for the original bill, believ- it it conforms more nearly to the views of the Commissioner of Affairs than the original bill. The differences are principally Instead *of granting a tribal* patent to the Indians in the Terri-

The bill has been carefully matured so as to fully protect the Ind
Any one desiring to remain and select lands may have the same allo
to him in quantities as provided in the fifth section of the substit
and in making such selection he may embrace his improvements, if
within the same.

As the bill provides for the consent of the Indians before any ca
removed, there can be no reasonable objection to the bill on tha
count.

The provisions relating to the allotment of lands in severalty are
fully guarded and conform to bills of a more general nature which
been fully discussed and settled in the House and Senate.

Public opinion seems decidedly in favor of allotting lands to Ind
in severalty, with proper restrictions upon alienation for a perio
twenty or twenty-five years. The committee understand this to be
policy of the present Administration as it was of its predecessor.
most intelligent friends of the Indians believe that their ultimate
ization must be accomplished by the substitution of the system of gr
ing lands to them in severalty for the present system of tenure by tr
in common. In no other way can their desire for a nomadic life
changed. By its adoption you furnish the Indian with the stron
inducement to abandon the chase for the cultivation of the soil, an
prefer the field to the forest.

There could not be selected a better tribe of Indians than the Ka
Kickapoos for a trial of this experiment, if such it can be called.

The original bill was reported favorably in the Forty-eighth Cong
(see House Report 765), and received the favorable indorsement of
Interior Department, as will appear by the letters of the Secretar
the Interior and Commissioner Price hereto appended.

The committee report the accompanying substitute for House bill
and recommend its passage.

e second section authorizes the Secretary of the Interior, after the survey and isement of the lands, to offer the same, through the proper land office, at public o the highest bidder.

ere improvements have been made by any Indian or for the United States upon lands the improvements are to be separately appraised.

provides that no portion of the land shall be sold for less than the appraised thereof, nor for less than $8 per acre, and that each purchaser shall be entitled rchase 160 acres, and no more, except in case of fractional excess in a legal sub-on; that such purchaser shall pay one-fourth of the purchase price at the time rchase, one-fourth in one year, and the remainder in five years from the date of ase, with interest annually on the deferred payments at the rate of 5 per cent. nnum; that when there are improvements upon the lands purchased, which shall been separately appraised, the purchasers shall pay the appraised value at the of purchase in addition to the amounts required to be paid for the land; that no t shall issue until full payment shall have been made; and that on the failure of urchaser to make payment as required, he shall forfeit the land purchased and ms paid thereon, and the land so forfeited shall be subject to entry at the ap-ed value, or shall be again offered at public sale as the Secretary of the Interior letermine.

third section provides that the proceeds of the sale of any improvements be-ng to any individual Indian shall be paid to the Commissioner of Indian Affairs ist, to be expended for the benefit of the Indian to whom they belonged; that roceeds of the sale of any improvements belonging to the United States shall be ited in the Treasury of the United States; and that the proceeds of the lands, deducting the cost of the survey, appraisement, and sale, and the expense of ving the Indians to the Indian Territory, shall be placed to the credit of the poo Indians, in the Treasury of the United States, and shall bear interest at the f 5 per cent. per annum, which income shall be annually expended for the ben-the Indians, under the direction of the Secretary of the Interior.

e fourth section authorizes the President of the United States to cause a patent issued to the Kickapoo tribe of Indians for the lands set apart for the Kickapoo such other Indians as the Secretary of the Interior might see fit to locate there-y Executive order of August 15, 1883.

e fifth section provides the form of patent to be issued under section 4.

e sixth section provides for allotments to the Indians residing upon the Kicka-eservation in the Indian Territory, whenever they shall desire the same, of 160 to each head of a family, and 80 acres to each single person over the age of ty-one years.

e seventh section provides for the issuance of patents to such allottees in the er and form provided for the Omahas (act of August 7, 1882, 22 Stat., 341).

e eighth section authorizes the Secretary of the Interior, with the consent of the ns, expressed in open council, to cause the removal of that portion of the Kick-tribe residing on the reservation in Kansas to the Kickapoo Reservation in the n Territory, and appropriates the sum of $30,000, or so much thereof as may be sary for the payment of the expenses of the surveys, appraisements, and sale emoval, and of such sum as may be rendered necessary for the comfort of those ed and of those already in the Indian Territory; the amounts so expended to mbursed to the United States out of the proceeds of the sales of lands.

Kickapoo Reservation in Kansas contains 20,273 acres, and is owned in com-nder the fourth article of the treaty of June 28, 1862 (13 Stat., 624). It is lo-in Brown County, Kansas, 5 miles north of the Union Pacific Railroad and 40 from the city of Atchison. The land is fertile and valuable. There are at pres-1 Indians residing upon the reservation; they are represented as living in com-le houses and having several fine bearing apple and peach orchards.

office has no information relative to their wishes with regard to the sale of ands, except that in a letter from one F. G. Adams, of Topeka, Kans., purport-give the views of Paschal Pensineau, a prominent Kickapoo, it is stated that a erable portion of the tribe remaining on the reservation in Kansas, desire to ands allotted to each member of the tribe, and the remainder sold for the com-nefit.

rtion of the Kickapoo tribe, including a number of Mexican Kickapoos, are re-in the Indian Territory upon a reservation set apart for them by the Executive f August 15, 1883.

ice report of July 30, 1883, transmitting the draft of said order, it was stated had been recently intimated that the Kansas Kickapoos might shortly desire their reservation and remove to the Indian Territory, in which event they be located upon the proposed reservation, which, it is thought, would be ample requirements of these Indians in addition to the Mexican Kickapoos.

he bill provides for obtaining the consent of the Indians before any steps are

Interior might see fit to locate thereon." This is an error. These lands were set a
for the "use and occupation of the Kickapoo Indians" only.

I think the bill should be amended by striking out the words "and such other,"
the words "as the Secretary of the Interior might see fit to locate thereon," in line
and 13, in section 4, and the words "and such other Indians as the Secretary of
Interior may see fit to locate with them," in lines 6 and 7, in section 5.

I have prepared, and transmit herewith, a copy of the bill with the proposed ame
ments incorporated, in which form it meets my approval.

I inclose copy of this report, and return Mr. Toole's letter and inclosure.

Very respectfully, your obedient servant,

H. PRICE,
*Commissione*

The SECRETARY OF THE INTERIOR

DEPARTMENT OF THE INTERIOR,
*Washington, February* 18, 18

SIR: I have the honor to return herewith H. R. 3201, entitled "A bill to provide
the sale of the Kickapoo diminished reservation in Kansas," which was received
this Department with letter from the committee requesting its consideration and
port thereon under date of 5th instant.

In reply, attention is respectfully invited to the inclosed copy of letter of 15th
stant from the Commissioner of Indian Affairs, to whom the subject was refer
who suggests certain amendments to said bill, which amendments are attached t
copy of the bill herewith returned.

I see no objection to the passage of the bill as amended by the Commissioner.

Very respectfully,

H. M. TELLER,
*Secretary*

The CHAIRMAN OF THE COMMITTEE ON INDIAN AFFAIRS,
*House of Representatives.*

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 643.

# IMPROVEMENT OF THE ERIE AND OSWEGO CANALS.

FEBRUARY 23, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. WEBER, from the Committee on Railways and Canals, submitted the following

## REPORT:

[To accompany bill H. R. 1577.]

*The Committee on Railways and Canals, to whom was referred the bill (H. R. 1577) to provide for the permanent improvement of the Erie and Oswego Canals and to secure the freedom of the same to the commerce of the United States, beg leave to submit the following report:*

The Erie and Oswego Canals are located in the State of New York, and are links of vital importance in the great water-route system, by the aid of which there has been wrought the marvelous prosperity and growth of the United States during the past half century. Their influence in the past as agencies to people our prairies and to build thousands of thriving cities is clearly established by the statistics of trade, and their influence to-day as regulators of the transportation charges of nearly the entire country is attested by authority the fairness and conclusiveness of which is beyond dispute.

Senator Windom, as chairman of the Select Committee on Transportation Routes to the Sea-board, in his very able report to the United States Senate in 1873, and again later in a masterly speech in the United States Senate in 1878, on the same subject, says:

> The chief instrumentalities by means of which those (competitive) forces will exert their power are the Mississippi River on the one side and the northern water routes on the other. * * * Both routes constitute indispensable parts of one grand system. * * * Each is needed to regulate the other and both as regulators of railway charges. Each has some advantages which the other lacks, and some impediment which the other has not; but on the whole their trade forces, commercial facilities, and economic capacity for cheap transportation will be so evenly balanced as to insure a healthy, active, and permanent competition.
>
> * * * But the competitive power and influence of the two great contestants (the water and railroad lines) will not be limited to any one locality, but will extend to nearly every State in the Union, and will hold in check and regulate the charges on every railroad from the interior to the sea-board. The wide sweep of competitive influence exerted by the Erie Canal is not generally understood or appreciated. You would doubtless be suprised, Mr. President, if I told you that the "little ditch" which runs through your State holds in check and regulates nearly every leading railroad east of the Mississippi River, and that it exerts a marked influence on the cost of transportation over all the country extending from the interior of the Gulf States to the Saint Lawrence River, and from the great plains of the eastern foothills of the Rocky Mountains to the Atlantic Ocean. And yet such is the fact.
>
> Lest it may be thought that my enthusiasm on this subject has betrayed me into an exaggeration, I will give you the words of Mr. Albert Fink, a gentleman who has no

prejudice in favor of water transportation, but whose ability and experience as a railroad manager is recognized everywhere. Mr. Fink has given more attention to the philosophy of transportation and written more wisely in regard to it than any other man in the United States. * * * I quote:

OFFICE OF COMMISSIONER, NO. 346 BROADWAY,
*New York, May* 3, 1878.

DEAR SIR: In your letter of April 29 you ask me to explain the effect of the opening of navigation on the lakes upon rates of transportation charged by the railroads extending from the West to the interior Gulf States. You are aware that when the rates are reduced between Chicago and New York on account of the opening of the canal this reduction applies not only from Chicago, but from all interior cities (Saint Louis, Indianapolis, Cincinnati) to New York. If that were not the rule the result would be that the roads running, say, from Saint Louis, Indianapolis, and Cincinnati to Chicago would carry the freight to Chicago, from which point low rail or water rates would take it to the East and leave the direct railroad routes from these interior points to the sea-board without any business. Hence, whenever the rates are reduced on account of the opening of navigation from Chicago and the lake ports, the same reduction is made from all interior cities, not only to New York, where the canal runs, but also to Boston, Philadelphia, and Baltimore. Although the latter cities have no direct water communication with the West, yet they receive the benefit, as far as low railroad rates are concerned, to the same extent as if a canal was actually running from the lakes direct to those cities, because whenever rates from Chicago to New York are reduced, it becomes absolutely necessary to reduce correspondingly the rates from Chicago to Boston, Philadelphia, and Baltimore; otherwise these cities could do no business, as it would all go to New York.

The reduction of the rates from Chicago and Saint Louis to New York, Baltimore, &c., reduces the rates on shipments from western points via New York, Baltimore, and ocean to the Southern Atlantic ports, to Norfolk, Wilmington, Port Royal, Savannah, Brunswick, Fernandina, &c., and from there into the interior Atlantic Gulf States by rail or water routes to Augusta, Atlanta, Macon, Montgomery, Selma, Houston, &c. The railroads running direct from Chicago and Saint Louis, via Louisville, Nashville, and Chattanooga to the same points are obliged to follow the reductions made via the rail and ocean routes, and which reductions were primarily made on account of the existence of the Erie Canal and the opening of navigation; it follows, therefore, that the Erie Canal influences the rates of transportation from Chicago, Saint Louis, Cincinnati, &c., to the interior of the Gulf States.

The same is true in relation to the west-bound freight. When rates are reduced from New York to Chicago the roads from New York to Louisville reduce their rates on shipments made by way of Louisville to Memphis, Nashville, Montgomery, Selma, &c., and the direct Southern transportation lines from New York via Norfolk, Wilmington, Charleston, Savannah, &c., have to reduce their rates to meet those made by the Northern lines to the same points, and *vice versa*.

It appears from the above statement that the Erie Canal and the lakes exercise their influence over the Southern country until it reaches a line where low ocean rates from New York to the Gulf cities—Mobile, New Orleans, and Galveston—exercise their influence upon the rates to the adjacent interior points, to Augusta, Macon, Selma, Montgomery, Houston, &c., so that it may be said that all the rail rates are kept in check by water transportation.

There need be no fear that extortionate rates will be charged by railroad companies; on the contrary, the fear is that water competition will be so effective as to prevent railroads from securing paying rates.

Very truly, yours,

ALBERT FINK.

Hon. WILLIAM WINDOM,
*Washington, D. C.*

## VALUE OF SAVING EFFECTED BY CHEAPENING TRANSPORTATION.

Our exports for the year ending June 30, 1885, of breadstuffs reduced to measure were 193,749,351 bushels. A saving in transportation of 2 cents per bushel upon this amount, which it is believed the improvements contemplated by the pending bill will effect, will amount to $3,874,987.02, and, with the same gain upon merchandise going westward, the outside sum provided in the bill for a work national in its benefits and permanent in its character will be saved in a single season.

Mr. Dodge, statistician to the Department of Agriculture, furnished the following estimate of grain affected by cheapening canal transportation:

DEPARTMENT OF AGRICULTURE,
*Washington, D. C., January* 26, 1885.

SIR: The conclusion of our work of revision of estimates enables me to give the amount of grain affected abstractly by the cheapening of canal freights from Buffalo west to the Missouri; the product is thus given:

| States. | Bushels. | States. | Bushels. |
|---|---|---|---|
| West Virginia | 3,318,000 | Iowa | 31,270,000 |
| Kentucky | 13,425,000 | Missouri | 27,500,000 |
| Ohio | 41,186,000 | Kansas | 34,990,000 |
| Michigan | 29,772,000 | Nebraska | 28,325,000 |
| Indiana | 33,745,000 | Dakota | 22,330,000 |
| Illinois | 32,374,000 | | |
| Wisconsin | 20,083,000 | Total | 359,625,000 |
| Minnesota | 41,307,000 | | |

On the amount, as above given by Mr. Dodge, 1 cent per bushel would give $3,500,000 for distribution between the farmers and consumers.

## THE NECESSITY OF CHEAPENING TRANSPORTATION.

For the year ending June 30, 1885, our total exports reached the sum of $726,682,946. Of this total cotton and breadstuffs furnished $374,169,875 or more than one-half. How to continue this absorption of our surplus products in the face of the rapidly growing competition of the eastern countries bids fair to become, if it be not already, one of the gravest questions to be considered. The comprehensive commercial system of Great Britain should not in admiration of its vastness blind us to the significance of her steady advances. She is energetically and persistently pursuing a policy of internal development of her dependencies, so that she may feed and furnish the raw materials with which to clothe her subjects and control the manufactures of the world. With one-seventh of the land surface of the globe and one fourth of the population of the earth under her control, she rests uneasily under her present dependence upon other countries for her vast food supplies and the raw cotton for her factories. An examination of the statistics will show that this is no idle alarm, and wise statesmanship suggests the use of every means in our power by internal improvements to avert the threatened danger.

In this connection the following extracts from the report of Consul-General Cramer, dated February 12, 1885, are worthy of attention:

Thus the export of wheat from India to Europe is annually increasing. The same is the case as to the export of wheat from Southern Russia. It has been estimated by competent authority that India will soon be, if it is not already, able to export annually about 320,000,000 bushels of wheat.

The cost of producing wheat in India (although in a rather primitive method) is estimated to be from 8 to 9 cents per bushel, while in Dakota it is estimated to be 18 to 19½ cents.

The cost of transportation from Bombay to England is calculated to be about 4½ cents per bushel, and from Kurrachee 2 cents more. This calculation was made before the Suez Canal dues had been reduced, which were rather high, and there is a probability that they will be entirely abolished on wheat. The Government of India contemplates constructing a railroad net of about 15,000 miles, at from 3 to 3½ per cent. interest on the money required. In England and India grain elevators and grain cars are being constructed to facilitate transportation, while plows specially adapted for Indian soil

are made in and shipped from England to India. All this will cheapen the production and transportation of wheat for the European market. Of course, Switzerland will derive the same benefits therefrom as England.

The inferences to be drawn from all this are obvious. India wheat will become, or is already, a strong competitor with American wheat in the markets of Europe.

South America and Australia are also booming up as competitors with the United States in the wheat markets of the world. They were formerly our customers in this respect, while at present they are expected to have a surplus of wheat of about 25,000,000 bushels.

* * * * * * *

These are hard facts, and it behooves our wheat growers and wheat exporters to look them fairly and squarely in the face and govern their actions accordingly.

* * * * * * *

In 1870 India exported of wheat 145,988 bushels. In 1884 this comparatively insignificant amount had grown to over 39,000,000 bushels, and for the present statistical year, embracing the latest reports, the figures show for eight months an export of nearly 30,000,000 bushels.

With improved machinery, improved methods of raising, which experience will develop, with farm labor at 8 to 9 cents per day, she needs but cheapness of transportation and better facilities for handling to make her products an important factor in the markets of Europe, where our surplus must meet in competition, and to do which we must depend upon the reduction of transportation to the lowest possible figure. Neither can we afford to rest upon a supposed superiority of the quality of our wheat products, for careful tests show that, with a proper mixture with other wheats, that of India yields from 5½ to 8½ per cent. more flour than American spring wheat.

## THE EFFECT OF THE REDUCTION OF WATER TRANSPORTATION UPON THE NATION'S PROSPERITY.

The following tables, taken from the reports on trade and navigation of the General Government by Mr. Nimmo, show the balance of trade against us before tolls were cut down, and the balance in our favor since the low-tolls and no-tolls policy was adopted:

*Balance of trade against us for ten years, from* 1866 *to* 1875, *under high tolls.*

| Years. | Exports. | Imports. | Excess of imports over exports. |
|---|---|---|---|
| 1866 | $348, 859, 522 | $434, 812, 066 | $85, 952, 544 |
| 1867 | 294, 506, 141 | 395, 761, 096 | 101, 284, 955 |
| 1868 | 281, 952, 899 | 357, 436, 440 | 75, 483, 541 |
| 1869 | 286, 117, 697 | 417, 506, 379 | 131, 388, 682 |
| 1870 | 392, 771, 768 | 435, 958, 408 | 43, 186, 640 |
| 1871 | 442, 820, 178 | 520, 223, 684 | 77, 403, 506 |
| 1872 | 444, 177, 586 | 626, 595, 077 | 182, 417, 491 |
| 1873 | 522, 479, 922 | 642, 136, 210 | 119, 656, 288 |
| 1874 | 586, 283, 040 | 567, 406, 342 | ..... |
| 1875 | 513, 442, 711 | 533, 005, 436 | 19, 562, 725 |
| | | | 836, 306, 373 |
| | | | 18, 876, 698 |
| Balance against us in ten years | ..... | ..... | 817, 429, 674 |

There was an excess of exports over imports in 1874 of $18,876,698.

*Value of the exports and imports for ten years with low tolls.*

| Year. | Exports. | Imports. | Excess of exports over imports. |
|---|---|---|---|
| ..... | $540, 384, 671 | $460, 741, 190 | $79, 643, 481 |
| ..... | 602, 475, 220 | 451, 323, 126 | 151, 152, 094 |
| ..... | 694, 865, 766 | 437. 051, 532 | 257, 814, 234 |
| ..... | 710, 439, 441 | 445, 777, 775 | 264, 661, 666 |
| ..... | 835. 638, 658 | 667, 954, 746 | 167, 683, 912 |
| ..... | 902, 377, 346 | 642, 664, 628 | 259, 712, 718 |
| ..... | 750, 542. 257 | 724, 639, 574 | 25, 902, 683 |
| ..... | 823, 839, 402 | 723, 180, 914 | 100, 658, 488 |
| ..... | 740, 513, 609 | 667, 697, 693 | 72, 815, 916 |
| ..... | 742, 189, 755 | 577, 527, 329 | 164, 662, 426 |
| 'otal..... | ..... | ..... | 1, 544, 707, 618 |

ance in favor of this country, $1,544,707,618 under low tolls.
reasons for this great change in our favor will be seen by looking at the changes ght rates during the past seventeen years, average freight charges per bushel for ortation of wheat from Chicago to New York since the year 1868, and also canal

*Average rates per bushel.*

columns from Nimmo's "Report on Foreign Commerce of the United States, 1884." Second mns from "A Sketch of the Commerce, &c., of Buffalo," by William Thurston, secretary Mer- ts' Exchange, and last 3 from "Report of Auditor of New York Canals, 1881."

| ndar year. | By lake and canal.* | By lake and rail. | By all rail. | By lake. | By canal. | Lake freights. | Canal freights. | Canal tolls. |
|---|---|---|---|---|---|---|---|---|
| | *Cents.* | *Cents.* | *Cents.* | *Cents.* | *Cents.* | *Cents.* | *Cents.* | *Cents.* |
| ..... | 24. 54 | 29. 0 | 42. 6 | ..... | ..... | 7. 14 | 15. 65 | 6. 21 |
| ..... | 23. 12 | 25. 0 | 35. 1 | ..... | ..... | 6. 81 | 16. 31 | 6. 21 |
| ..... | 17. 10 | 22. 0 | 33. 3 | ..... | ..... | 5. 88 | 11. 22 | 3. 10 |
| ..... | 20. 24 | 25. 0 | 31. 0 | ..... | ..... | 7. 62 | 12. 62 | 3. 10 |
| ..... | 24. 50 | 28. 0 | 33. 5 | ..... | ..... | 11. 15 | 13. 10 | 3. 10 |
| ..... | 19. 19 | 26. 9 | 33. 2 | ..... | ..... | 7. 62 | 11. 57 | 3. 10 |
| ..... | 14. 10 | 16. 9 | 28. 7 | 3. 9 | 10. 0 | 4. 03 | 10. 11 | 3. 10 |
| ..... | 11. 43 | 14. 6 | 24. 1 | 3. 5 | 7. 9 | 3. 42 | 8. 01 | 2. 07 |
| ..... | 9. 58 | 11. 8 | 16. 5 | 2. 9 | 6. 6 | 3. 11 | 6. 72 | 2. 07 |
| ..... | 11. 24 | 15. 8 | 20. 3 | 3. 7 | 7. 4 | 3. 57 | 7. 39 | 1. 03 |
| ..... | 9. 15 | 11. 4 | 17. 7 | 3. 1 | 6. 0 | 3. 17 | 5. 99 | 1. 03 |
| ..... | 11. 60 | 13. 3 | 17. 3 | 4. 7 | 6. 8 | 4. 72 | 6. 96 | 1. 03 |
| ..... | 12. 27 | 15. 7 | 19. 7 | 5. 7 | 6. 5 | 5. 70 | 6. 50 | 1. 03 |
| ..... | 8. 19 | 10. 4 | 14. 4 | 3. 2 | 4. 7 | 3. 40 | 4. 88 | 1. 03 |
| ..... | 7. 89 | 10. 9 | 14. 6 | 2. 5 | 5. 4 | ..... | ..... | 1. 03 |
| ..... | 8. 40 | 11. 5 | 16. 5 | 3. 5 | 4. 9 | ..... | ..... | ..... |
| ..... | 6. 60 | 9. 75 | 13. 0 | 2. 1 | 4. 2 | ..... | ..... | ..... |

* Including Buffalo transfer charges and tolls.

s is a great improvement over the $100 per ton charged for transportation from y to Buffalo before the completion of the canal.

e following extracts are from Mr. Nimm's report of 1884 on foreign nerce:

reduction in the average rates of transportation by lake and canal from 24.54 per bushel in 1868 to 6.60 cents per bushel in 1884, in the rates by lake and rail 9 cents per bushel in 1868 to 9.3 cents per bushel in 1884, and in the "all-rail" rates 12.6 cents per bushel in 1868 to 15.5 cents during the year 1884, was the direct of the sharp competition which prevailed between competing railroads, and en the railroads and the water line formed by the lakes, the Erie Canal, and the n River. Each transportation line has exerted a regulating influence over every transportation line, and this competition has strongly tended to reduce freight es.

* * * * * * *

completion of the Erie Canal in 1826 was the first important measure whereby st agricultural resources of the States and Territories situated west of the sea-

board States were placed in direct communication with Atlantic sea-ports. The value of the exports of breadstuffs and provisions from the United States increased from $8,374,483 in 1826 to $73,664,431 in 1856.

In 1885 they have increased to $267,703,277. Thirty years ago our largest lake craft for transporting freight did not exceed 20,000 bushels, or 600 tons. Now 100,000 bushels or 3,000 tons is the maximum. Then the depth on the Saint Clair Flats was 9½ feet; now it is 16 feet. The depths, according to General Poe, have been to 1858, 9½ feet; to 1871, 12 feet; to 1874, 13 feet, and to the present time, 16 feet.

The proposed canal enlargement and improvement it is estimated will reduce the cost of transportation 2 cents per bushel, and bring it down to so low a figure that no further expectation of reduction can reasonably be indulged in.

## WHY NEW YORK CANNOT BE EXPECTED TO UNDERTAKE THE WORK AT STATE EXPENSE.

Several hundred miles of tributary canals have been grafted upon the trunk lines of the Erie, and every movement looking to the improvement of the main canals becomes complicated by arousing the jealousies of local interests connected with the lateral canals. All tolls were removed in 1882, and since the beginning of the season of 1883 the canals are free to the nation, while their care and maintenance fall upon the tax-payers of New York. This maintenance, embracing only absolutely necessary and ordinary repairs, amounts to about $800,000 annually, and until the canal debt of the State is extinguished about as much more is annually required to provide for that. For the present year the estimates of the comptroller of the State of New York require the levying of a tax for canal purposes of $1,702,102.30.

This burden the people of the State cannot reasonably be expected to add to by undertaking the enlargement without which the canals are likely to fall into disuse or be abandoned to private corporations. Only eighteen of the sixty counties of the State border on the Erie and Oswego Canals, and the hostile sentiment of the people off the line of the canals should not be permitted development by increase of burdens, lest this outlet of the great grain fields of the West and Northwest and this controller and regulator of the transportation interests of the country be strangled by the railroad monopolies of the land.

For the year ending December 31, 1885, there was delivered at New York of flour, grain, and meal (excepting beans and buckwheat), reduced to measure, 126,637,431 bushels, by the following routes:

| Routes. | Bushels. | Per cent of total by each route. |
|---|---|---|
| New York Central and Hudson River Railway | 36, 079, 712 | 28.[illegible] |
| New York, Lake Erie and Western Railway | 24, 979, 551 | 19.7[illegible] |
| Pennsylvania Railway | 15, 229, 591 | 12.[illegible] |
| Delaware and Lackawanna Railway | 5, 718, 428 | 4.[illegible] |
| West Shore and Buffalo Railway | 10, 001, 299 | 7.[illegible] |
| Various routes | 959, 959 | .7[illegible] |
| By river and coastwise | 3, 738, 304 | 2.7[illegible] |
| By canal | 29, 930, 587 | 23.[illegible] |
| Total receipts | 126, 637, 431 | ..... |

commercial sense these canals originally were largely local in cter, but gradually and regularly they have been changing, and ow of national benefit and importance. In 1836 the Western furnished us but one-seventh of the total tonnage, while in 1882 -eighths of it came from the West, as the following tables will

Also table of tolls collected, showing amount of revenue relin- ed, the benefit of seven-eighths of which falls to the West, as per nent.

*nt of the tons of property going from tide-water and the tons arriving at tide-water from the Western States, and from this State from 1836 to 1883.*

| Going from tide-water. | Arriving at tide-water by way of Erie Canal. | | Toll to the State. | Years. | Going from tide-water. | Arriving at tide-water by way of Erie Canal. | | Toll to the State. |
|---|---|---|---|---|---|---|---|---|
| | From Western States. | From this State. | | | | From Western States. | From this State. | |
| 133, 796 | 54, 219 | 364, 906 | ..... | 1860 .. | 373, 735 | 1, 696, 975 | 379, 086 | $3, 099, 507 |
| 122, 130 | 56, 255 | 331, 251 | $1, 222, 623 | 1861 .. | 340, 736 | 2, 158, 425 | 291, 184 | 3, 908, 785 |
| 142, 808 | 83, 233 | 336, 016 | 1, 590, 911 | 1862 .. | 417, 623 | 2, 594, 837 | 322, 257 | 5, 168, 943 |
| 142, 025 | 121, 761 | 261, 596 | 1, 616, 362 | 1863 | 456, 890 | 2, 279, 252 | 356, 437 | 4, 645, 207 |
| 129, 580 | 158, 148 | 309, 167 | 1, 775, 747 | 1864 .. | 493, 913 | 1, 907, 136 | 239, 498 | 3, 983, 982 |
| 162, 715 | 224, 176 | 368, 344 | 2, 034, 862 | 1865 .. | 458, 684 | 1, 904, 156 | 174, 205 | 3, 859, 955 |
| 123, 294 | 221, 477 | 256, 672 | 1, 749, 196 | 1866 .. | 626, 974 | 2, 245, 716 | 287, 948 | 4, 436, 639 |
| 143, 595 | 256, 376 | 378, 969 | 2, 081, 590 | 1867 .. | 792, 573 | 2, 129, 465 | 96, 797 | 4, 098, 058 |
| 176, 737 | 308, 025 | 491, 791 | 2, 446, 374 | 1868 .. | 1, 067, 920 | 2, 215, 222 | 163, 350 | 4, 246, 563 |
| 185, 000 | 304, 551 | 655, 039 | 2, 646, 181 | 1869 .. | 772, 201 | 2, 028, 568 | 229, 121 | 3, 778, 501 |
| 213, 815 | 506, 830 | 600, 449 | 2, 756, 106 | 1870 .. | 949, 429 | 2, 046, 947 | 241, 751 | 2, 611, 578 |
| 288, 267 | 812, 840 | 618, 412 | 3, 635, 581 | 1871 .. | 801, 538 | 2, 473, 832 | 175, 045 | 3, 109, 638 |
| 329, 557 | 650, 154 | 534, 183 | 3, 252, 293 | 1872 .. | 956, 228 | 2, 456, 022 | 214, 363 | 3, 072, 411 |
| 315, 550 | 768, 659 | 498, 065 | 3, 268, 226 | 1873 .. | 765, 117 | 2, 359, 455 | 225, 909 | 2, 976, 718 |
| 418, 370 | 841, 501 | 530, 358 | 3, 273, 899 | 1874 .. | 753, 981 | 2, 599, 364 | 299, 933 | 2, 627, 071 |
| 467, 961 | 1, 045, 820 | 462, 857 | 3, 329, 727 | 1875 .. | 701, 253 | 1, 664, 056 | 259, 896 | 1, 569, 032 |
| 521, 527 | 1, 151, 978 | 492, 726 | 3, 116, 244 | 1876 .. | 745, 797 | 1, 402, 768 | 342, 552 | 1, 244, 004 |
| 584, 141 | 1, 213, 690 | 637, 748 | 3, 204, 718 | 1877 .. | 978, 991 | 2, 011, 081 | 297, 927 | 889, 896 |
| 531, 831 | 1, 094, 391 | 602, 167 | 2, 773, 566 | 1878 .. | 763, 159 | 2, 459, 512 | 381, 278 | 293, 348 |
| 504, 606 | 1, 092, 876 | 327, 839 | 2, 865, 077 | 1879 .. | 992, 434 | 2, 196, 177 | 349, 225 | 941, 584 |
| 573, 733 | 1, 212, 550 | 374, 589 | 2, 748, 212 | 1880 .. | 1, 264, 179 | 2, 801, 292 | 425, 076 | 1, 155, 419 |
| 340, 176 | 1, 019, 498 | 197, 201 | 2, 045, 641 | 1881 . | 1, 056, 196 | 1, 804, 139 | 286, 182 | 632, 390 |
| 287, 073 | 1, 273, 699 | 223, 568 | 2, 110, 754 | 1882 . | 1, 038, 002 | 1, 624, 129 | 276, 311 | 655, 826 |
| 317, 459 | 1, 036, 634 | 414, 699 | 1, 723, 945 | 1883 .. | 982, 772 | *2, 007, 766 | | None. |

*Not separated.

ing the calendar year 1885, the west-bound freight received at lo was 494,280 tons.

bill provides for the issuing by the Secretary of the Treasury of bearing 2½ per cent. interest to an amount not exceeding $5,000,000, delivered to the State of New York upon the completion of certain vements therein specified, and after the State has pledged itself aid canals shall be maintained by said State free to the commerce United States, or in the event that these canals shall cease to be the commerce of the United States, the State will repay so much ll have been so received.

eving that from a commercial point of view these canals are na- in character, that their beneficial influences, directly and indi- , are and will be felt and shared by a very great portion of our sts and people, the committee recommend the passage of the bill he following amendment, viz:

page 2, section 2, line 5, between the word "States" and the word insert the words "from any toll or other charge whatever."

CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
: Session. } { No. 644.

# PUBLIC BUILDING AT CHARLESTON, W. VA.

ARY 23, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

NYDER, from the Committee on Public Buildings and Grounds, submitted the following

## REPORT:

[To accompany bill H. R. 2642.]

*'ommittee on Public Buildings and Grounds, to whom was referred House bill 2642, submit the following report:*

: work of constructing the public building at Charleston, W. Va., egun in 1881, and the building completed in 1884.

ce the plans for the building were adopted and the work begun, eston has become the capital of the State, and its growth in popu- and that of the surrounding country has been so rapid and busi- so largely increased, as to render the present building wholly in- ate for the transaction of the Government business. This fact o apparent, that in November, 1885, the Supervising Architect of reasury, at the request of the judge of the United States district for that district, sent the general superintendent of repairs of pub- ildings to Charleston, to ascertain and report what repairs or ges were necessary to be made in said building, to enable the busi- of the Government to be transacted with convenience and comfort public and to its officers. Such parts of said report as go to the s of this bill are here inserted:

er your order of the 24th instant, I proceeded to Charleston, W. Va., and held rence with his honor, Judge J. J. Jackson, of the West Virginia United States t court, with reference to improving and enlarging the court-room in United court-house and post-office building.

room is entirely too small for this point, as about three-fourths of the work of ited States courts of the State of West Virginia is done here.

r making a full inspection and thorough examination of the building I find that ld not be at all expedient to make any changes, as the building is too small to of it, and the construction is such that it would be impracticable to attempt it. ly way the additional room which is required can be given is by adding a wing building of the following dimensions: 40 by 47 feet on the rear end of 52 by 8 d falling back 3 feet from each corner.

ar as the post-office is concerned it will do for a short time, but I believe in months it will be too small for the expeditious handling of the business, which tantly increasing. Even now there is no place in which to put an office for reg- letters and money orders. All the offices are cramped and crowded.

jury-rooms are in the third story, or attic, and are in bad condition. The lit- mer windows do not give sufficient ventilation or light, gas having to be used light. The whole building needs more or less alterations, and it will require lowing amounts to meet repairs in order that it may be made suitable for the h of the public business.

total amount recommended is $51,723. The Supervising Archi- as concurred in the report of the superintendent of repairs, and ecommended the appropriation as therein stated.

ar committee therefore recommend the passage of the bill.

O

9TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 645.

# JOHN R. HARRINGTON.

BRUARY 23, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

r. LEHLBACH, from the Committee on Patents, submitted the following

## REPORT:

[To accompany bill H. R. 4594.]

*e Committee on Patents, to whom was referred the bill (H. R. 4594) for the relief of John R. Harrington, submit the following report:*

The committee adopts the House report No. 2592, Forty-eighth Congress, second session, as follows:

That the applicant is an old man and entirely blind, and has been so during the ater portion of the life-time of the patents, and for this reason he failed to realize r adequate compensation for his invention and expenses.

The invention consists in the improvement of carpet-lining, and is a foundation , and of great merit. It appears that the most influential dealers in the carpet de in all parts of the United States have petitioned for renewal of the patents to said John R. Harrington, and that the manufacturers are in favor of the same.

No opposition appears to be made to the granting of the relief prayed for by the apcant. The committee are confident from all the evidence that the failure to obtain pensation is not from any neglect or default of the applicant.

The committee recommend an amendment to the bill by striking out of section 1, after the word "act," in line 11, and inserting as folws:

"And the Commissioner of Patents is hereby authorized and empowed to renew and extend to said John R. Harrington each of said tents for the term of seven years from and after his decision thereon, th the same force and effect as if each of said patents had been origilly granted for the term of seven years from the date of his decision reon, if, in his judgment, the same should be renewed and extended."

The committee recommend the passage of the accompanying bill as ended.

O

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 646.

# STEPHEN N. SMITH.

BRUARY 23, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

LEHLBACH, from the Committee on Patents, submitted the following

## REPORT:

[To accompany bill H. R. 3126.]

*e Committee on Patents, to whom was referred the bill (H. R. 3126) for he relief of Stephen N. Smith, having had the same under consideration, nake the following report:*

The committee adopts the House Report No. 445, Forty-eighth Con-ss, second session, as follows:

n this case Stephen N. Smith, a citizen of the United States, asks relief from the ration of section 4887 of the Revised Statutes of the United States, which pro-es among other things that a patent granted in the United States upon an in-tion which had been previously patented in a foreign country shall be limited so o expire at the same time with the foreign patent, or, if there were more than , at the same time with the one having the shortest term.

n 1879 Mr. Smith made certain valuable improvements in machines for making ing-hooks for boots and shoes, and on the 29th day of July, 1879, filed in the ted States Patent Office an application for letters patent covering the said inven-.

n the 29th day of September, 1879, while the said United States application was ding, he filed in the Canada patent office an incomplete application for a Canadian ent for the same invention, with the intention of allowing said Canadian applica-n to remain in an uncompleted condition until his United States patent should be ted, and then to complete his Canada application and take a Canada patent.

or some reason unknown to the said Smith his incomplete Canada application was wed, and a Canada patent issued on the 13th day of October, 1879. The Canadian nt was for a term of five years, subject to a prolongation for five or ten years more, he patentee's option. His protection in Canada can, therefore, be continued until year 1894, while, in accordance with the letter of the statute, and under the con-ction recently placed upon the statute by the United States courts, Mr. Smith's tection in this country will be limited to expire with the first period of the Cana-n patent, to wit, on October 13, 1884.

he United States application for a patent was allowed May 31, 1880, and a patent ered to issue to said Smith for his invention, but on the same day an application the same invention was filed in the United States Patent Office by a person alleged e a workman who had been employed to assist Mr. Smith in the manual labor of structing the machines when he was making his experiments therein. This ap-ation so filed by said former assistant of Mr. Smith was a complete copy of the cifications and drawings of the Smith Canada patent, even to the clerical errors l mistakes existing therein.

he order for the issue of the patent to Mr. Smith in the United States Patent Office s withdrawn, and his application was put into interference with this new applica-n. Testimony was taken by the respective applicants, and arguments made before several examiners in the Patent Office and finally before the United States Com-sioner of Patents, each tribunal deciding in favor of Mr. Smith, to whom a patent s thereupon granted June 13, 1882.

By reason of the interference proceedings in the Patent Office, the grant of Smit patent was greatly delayed, so that when finally granted, on June 13, 1882, it h only about two years and four months to run, if its term should be limited by t term of the Canada patent.

There was no intentional fault on the part of the patentee (Smith) in applying f his Canada patent, as he intended to have its grant delayed and withheld until aft the grant of his United States patent, and for that purpose did not complete his Ca ada application nor comply with the necessary requirements for the grant of a C nadian patent, and the issuance of the same at the date thereof was against his desi and without his knowledge.

The action of Mr. Smith in first filing his application for a patent in the Unit States Patent Office before making his application abroad for a patent for the sa invention, with the intention of having the grant for the foreign patent withhe until the grant of his United States patent, constitutes, in the judgment of your co mittee, such a substantial compliance with the spirit of the statute as to entitle h to relief from the operation of its strict terms.

No person has ever infringed upon said patent or Mr. Smith's rights to said inve tion except said former workman, and he has been enjoined and prohibited therefr by the United States court.

The United States patent of Mr. Smith is still in force, is for a valuable inventio and of great utility to the public, and the bill seeks to have his said patent confirm as a valid grant for the term of seventeen years from the date of said patent as e pressed on the face of said patent, notwithstanding the grant of a Canadian pate for the same invention.

In view of all the facts in the case, your committee report favorab on the bill, and recommend its passage.

C

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 647.

# JAMES MOSS.

FEBRUARY 23, 1886.—Laid on the table and ordered to be printed.

Mr. MATSON, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 24.]

*The Committee on Invalid Pensions, to whom was referred House bill 24, report as follows:*

There is a remedy for this claimant in the Pension Office, and we therefore report adversely.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 648.

# JOHN A. DEAN.

FEBRUARY 23, 1886.—Laid on the table and ordered to be printed.

Mr. MATSON, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 3911.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3911) granting a pension to John A. Dean, submit the following report:*

That on September 22, 1864, said John A. Dean enlisted as a private in Company I, Fourth United States Artillery, and was discharged on March 17, 1865, on surgeon's certificate of disability.

In his declaration filed April 4, 1865, claimant alleges that while on patrol duty, and in attempting to arrest seventeen men who had escaped from the guard-house, he had three fingers shot so bad as to necessitate amputation, for which he was discharged from service. Also, in declaration filed March 2, 1874, he alleges that at Nashville, Tenn., November, 1864, he was wounded by the enemy in left hand, causing amputation of three fingers.

The testimony of Capt. Frank S. Smith, of Company I, Fourth United States Artillery, claimant's company, is that some time in the latter part of November, 1864, when in camp at Nashville, Tenn., Dean, then a recruit, accidentally wounded himself in the hand with a pistol, not being at the time on any duty. The discrepancies in the statements of the claimant and the testimony of Capt. Frank S. Smith, it appears to your committee, is sufficient for the rejection of this claim, and we therefore recommend the indefinite postponement of the bill.

O

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 649.

# ELIZABETH STEWART.

BRUARY 23, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

r. MORRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 5253.]

*e Committee on Invalid Pensions, to whom was referred the bill (H. R. 5253) granting a pension to Elizabeth Stewart, submit the following report:*

We find that claimant is the widow of Thomas L. Stewart, who en-ted in Company E, Fourth Regiment of Pennsylvania Volunteers, igust 6, 1861; re-enlisted as a veteran January 1, 1864; was promoted second lieutenant November 13, 1864, to first lieutenant May 24, 1865, l mustered out July 1, 1865. He died October 26, 1882. His widow plied for a pension, which was rejected on the ground that his death s not the result of his military service.

'he evidence in this case shows that the soldier entered the service a ng, hearty, robust man. His four years of faithful service and his d moral character and temperate habits are proven by his captain. ohn A. Fulton testifies that about two years after he entered the vice he began to complain of rheumatism, and was so bad towards the e of the war that he was unable to do duty a good part of the time; t he was never a sound man after he came out of the war. Hiram ton testifies that he knew the soldier from his youth until his death. tt when he came out of the service he could not do a good day's work, and to lay by a good part of the time; that he was unable, by rea- of ill-health, to support his family, and the claimant had to take in shing and do other hard work to keep the family.

'he evidence shows that he was treated also for scurvy after his dis-rge by Drs. James Herron and Samuel Foote (in Allegheny County, nsylvania), both of whom are dead. Dr. George E. Irwin, a physi-n of over thirty years of active and extensive practice, testifies that was acquainted with him for five years before his death, and treated n for scurvy and rheumatism. He was in very bad health from the e I first met him. He died from typho-malaria, and would not have d except from the poisoned condition of his system caused by the rvy, and that if ever a man deserved a pension for disease contracted the Army Thomas Stewart did.

At the time of his enlistment he had been married to and lived th the claimant eight years. He was a strong healthy man when he t his wife to take up arms in defense of his country. For four years served it faithfully, rising from the humblest rank through all the

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CONGRESS, Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 650.

# JOHN W. LOGAN.

UARY 23, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

MORRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 5000.]

*Committee on Invalid Pensions, to whom was referred the bill (H. R. 00) to place the name of John W. Logan on the pension-roll, submit the llowing report:*

e find that John W. Logan is the father of Clinton M. Logan, who sted June 16, 1862, in Company F, Eighty-fifth Illinois Volunteers, died September 9, 1864, from the effects of a gunshot wound at the ds of the patrol guard at Atlanta, Ga. The application for pension filed by the father in July, 1879, and rejected March 28, 1884, on ground that the soldier was not in line of duty when killed. It is remely doubtful whether this is true or not, and the benefit of the bt seems to be given to the Government.

hree witnesses testify that the soldier was sent from camp by his mmanding officer to the city with a letter for another officer. The ails are given very fully. While absent on this duty it is claimed was shot by a drunken guard. On the other hand, several members he command testify that they have the impression that the boy was on duty at the time he was killed. It seems that he was a mere d when he enlisted, being only thirteen years of age, and not fifteen n he was shot; that he was devoted to his father, and sent him his ings freely, is fully shown; that the father was poor and nearly d when his boy entered the service, and that he is now supported the charity of his Masonic brethren is equally well established.

t would seem that in a case like this, where it is not clearly shown t the soldier was not in the line of duty, the benefit of the doubt ght to be given to the dependent father. He was an only son, and old man is left in his poverty dependent on the charity of those who not bound to him by any ties of relationship.

Your committee recommend the passage of the bill.

O

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 651.

# GEORGE W. FLINT.

BRUARY 23, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

. MORRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 5323.]

*e Committee on Invalid Pensions, to whom was referred the bill (H. R. 323) granting a pension to George W. Flint, submit the following report:*

Ve find that claimant was a member of Company D, Fifty-seventh giment Missouri Enrolled Militia, and that he made application for sion in 1876, which was rejected on the ground that the claim was proven before July 4, 1874, as required in paragraph 3, section 4693, Revised Statutes. The records show that claimant enlisted July 28, 2, and was ordered into active service August 2, 1862; was paid by State, which was afterwards reimbursed by the United States.

ieut. W. H. Eads, of the same company, testifies:

bout the 1st of September, 1882, while in active service in Jackson County, Mis-i, said Flint was injured as follows: While discharging guns after a rain under order of officers for the purpose of reloading afresh, the gun in the hands or said t bursted, tearing off the thumb of the left hand; that said Flint was in line of r and acting under orders at the time of the discharge; affiant was standing near Flint at the time of the discharge and bursting of said gun and saw said wound he time and frequently afterwards.

Dr. George W. Newman testifies:

'as surgeon of the regiment; that he was in camp at the time of the bursting of gun; that he saw claimant a few minutes after and amputated the thumb.

The proof seems clear and unquestioned, and as Congress has invariy granted relief in this class of cases your committee recommend the sage of the bill.

C

CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 652.

# JOHN W. THORNTON.

BRUARY 23, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

MORRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 5252.]

*Committee on Invalid Pensions, to whom was referred the bill (H. R. 252) granting a pension to John W. Thornton, submit the following report:*

n the morning of the 21st of August, 1863, Quantrelle, at the head of ee hundred rebels, entered Lawrence, Kans., for the purpose of de-ying the city and killing its inhabitants. For several hours the in-nate fiends continued their hellish work, destroying property and dering the defenseless inhabitants indiscriminately. This terrible sacre has no parallel in the history of our country, and left a stain n our civilization that will never be forgotten. Among the citizens hat fated city was an honest, humble carpenter, who, with his wife child, had sought a home in the new West. Of the few who were nded on that day the claimant still survives. Of the one hundred sixty-eight who were shot one hundred and forty-three were killed right, or died soon after of their wounds. None were so fearfully gled as John W. Thornton; twelve shots were fired at him, of which en took effect. It seems incredible that he survived. The following phic account, written by John C. Shea, and published in the Chicago es a few years after the massacre, is a thrilling description of the ner in which claimant received his frightful wounds:

have often noticed, passing through the streets of Lawrence, a cripple who, by aid of a couple of stout sticks, slowly hobbles along. Although emaciated and with shriveled and paralyzed limbs, the face of this man, when scrutinized ly, presents lines of brightness and intelligence which one would hardly seek on me so feeble. You will say, when you have read this chapter of his life, that man must have had a constitution of iron to stand up against the terrible batter-of leaden bullets which fell upon him on the 12th of August, 1863. J. W. Thorn-for this is the name of the cripple, when not suffering from some new phase of oken constitution, the result of wounds received that day, may be seen, with eyes down, slowly passing along the sidewalks of this city, scarcely arresting the gaze he passer by, and yet this man is a hero before whom many of the heroes of the l might doff their plumed hats. If to stand face to face with death, to do battle inst fearful odds, to live a life of suffering and pain, is not to be named heroic, re is it to be found?

r. J. W. Thornton, a carpenter by trade, resided at the time of the Quantrell raid the south side of Winthrop street, between New Hampshire and Rhode Island ets. and on the lot where Donnelly's livery stable now stands. He was awakened at sunrise by hearing firing at some distance. Soon the firing was close to his se. Then he heard a pistol shot in the house directly opposite, on Northrup street,

occupied by Mr. Pierce, a tinsmith. Two fellows then came and kicked at his door loudly cursing and swearing. Mr. Thornton's first thought was to get out of sight. His household consisted of wife and sister-in-law. When the two raiders found the door locked they pounded upon it until they partially broke it open, when Thornton's sister-in-law went forward and opened it. Thornton in the mean time slipped upstairs and entered a wardrobe room. Taking a wagon cover or sheet with him he hung it upon one of the clothes-hooks, and stepped behind it. Mrs. Thornton told the intruders that there was no man in the house, but they would not believe her, and darted upstairs to search. One of the fellows put his head in the clothes room, but did not see Thornton, though close to him. He turned about and quickly took the straw bed from the bedstead and put it in the middle of the floor, when he and his companion set fire to it. The raiders then went down-stairs. The raiders were quickly followed in their operations by Mrs. Thornton, who, when they went down-stairs, quickly smothered the fire with a blanket. She then carried the bed down-stairs, where she was met by her unwelcome visitors, who drove her from the bed and fired it again. They then told her that if she put the fire out they would close the house and burn all together.

Mrs. Thornton replied that she was not afraid, and that they would not dare to burn her. They then told her that if she would get them a revolver they would spare the house and all inside. She replied she could not do that. They then told her to clear the house of what she wanted, "and do it d—d quick," as they were determined to burn it.

The two men then stepped out of the house, but did not go far until two other raiders, on horseback, came along. The burning bed soon made it uncomfortable for Thornton, who, to aid his wife, left his concealment and commenced to throw furniture out of the windows. Clearing the upper story, he afterwards descended and cleared the lower part of the house, the flames spreading the while. While this was going on, the two raiders on horseback calmly watched the progress of affairs. When the house became too hot Thornton stepped out of the back door toward the south, while the raiders were at the mouth of the alley. The lot was not fenced. As Thornton made his appearance one of the raiders said:

"Come here, you d—d ——!"

Thornton stepped over toward the two men, when one of them exclaimed:

"Go to work, d—n you."

Picking up a small piece of furniture, Thornton started off with it, when one of the raiders again exclaimed:

"Stop, you d—n ———!"

Thornton looked over his shoulder, and saw one of the fellows putting away his revolver. The other said, 'Shoot him anyhow, d—n him."

And the fellow blazed away, the shot taking effect in Thornton's hip joint. Thornton now tried to get out of the way, and for this purpose dodged around just east of his own burning building. The raiders followed, but were not quick enough to prevent him from taking refuge in the building, which was on fire. As he stepped upon the piazza, a ball from one of the raider's pistols struck him on the shin. Thornton's wife followed into the burning building, owned by Mr. Richards. The morning air was still and the fire burned slow, but it soon became dangerous to stay in the building any longer. It was sure death to stay where they had sought refuge, and death was almost as certain when they stepped out from the smoke and flames of the burning edifice. But there was no alternative. So, almost blinded with smoke, the two fugitives prepared to depart. They passed out of the house and over the piazza, the wounded and bleeding husband leaning on the arm of his faithful wife. Passing down the steps toward the alley, they were confronted by the two raiders on horseback. One of the raiders, immediately upon catching a glimpse of Thornton, spurred his horse forward to the side of his victim. Thornton immediately grabbed him by the knee with his left hand, and with his right tried to reach the raider's uplifted revolver.

Then commenced a struggle for life by the wounded man, which has few equals in the annals of bloody encounters. The frightened wife was powerless to aid her husband, as the other raider spurred his horse close to her in a threatening manner. While in the position I have described the desperate raider shot Thornton twice—once in the face and once in the back, and struck him seven times on the head with the revolver. The ball on the face was received while the revolver was pointed downward, the intention evidently being to shoot him through the head. The ball glanced through Thornton's felt hat, through the overhanging arch of the left eye, grazing the cheek to the bone. The ball in the back glanced down the backbone to the small of the back, and then turned into the right hip. The raider emptied four chambers of his revolver while in this position. The other raider, impatient at the delay, spoke up and said:

"Stand back and let me try. He is the hardest man to kill I ever saw."

Thornton becoming very weak from loss of blood and sick and faint, let go his hold

of the raider and was then confronted by his companion. This one fired away in rapid succession, without doing much damage. One ball from his revolver, however, took effect in Thornton's left thigh. To prevent falling from faintness Thornton sat down upon the embankment of his burning house. As he did so the man whom he had held by the knee urged his horse forward, and, as he came up to the prostrate man, suddenly pulled his horse back upon his haunches and then threw him forward to trample the life out of the wounded, bleeding man. As luck would have it the fore feet of the animal came down on each side of Thornton's left leg. The raider then quickly leveled his revolver to shoot him again, when Thornton's wife darted forward, grasped the bridle of the horse, and backed the beast away, exclaiming as she did so:

"For God's sake, men, let him alone, he's killed now."

The raiders, abashed at their cowardly conduct, or awed by the presence of the pleading wife, slunk away to the middle of the street to reload their empty revolvers. Then they rode off and were seen no more. Mrs. Thornton, with the assistance of Miss Eliza J. Turner and Miss Pierce, now exerted herself to remove Thornton from so close a proximity to the burning buildings. They rolled him upon a lounge tick, and dragged him across the street to an open space, where he lay and watched the operations of the raiders in that part of the city. His position was close to the City Hotel, where Quantrell had established his headquarters. He witnessed the shooting of Mr. Stone, the proprietor, Mr. J. H. Brown, also a one-armed peddler, and a stranger from Ohio. He saw the raiders fire the hotel and then depart. The next alarm was from the appearance of a band of Delaware Indians. Mrs. Thornton became greatly alarmed, declaring that men and women would now be murdered in cold blood. But the Indians were friendly and passed on in pursuit of the raiders.

Mr. Thornton, as he lay there, bled profusely, but his wife, at his request, kept him drenched in cold water. He received in his person seven bullets out of twelve shots fired at him. All the bullets went through but two. One of these was extracted, the other he still carries. The cuts on the head, from the downward strokes of the revolver while grasping the raider, were all severe, and had to be sewed up. He was confined to his room for eight months, and he has since been a cripple and an invalid. Thornton recognized one of his assassins—the one he grappled with—as one Jones, who formerly lived in Allan County, Kansas. He ran off some horses and strayed over to Missouri. He was a small, light-complexioned man. His companion was a tall, dark-haired man. He was very dirty and wore a black silk shirt.

Mr. Thornton's sufferings have been great. The broken and shattered bones of his hip and limbs have come away at different times, causing intense suffering and long-confined illness. To-day he is but a mere wreck, although before the raid he was a healthy, robust man. He owns a little property in the southern end of the city, and has several children grown up about him. His wife, a smart, intelligent woman, with what little her husband can do, supports the family with her needle and by teaching. This case appeals strongly to the State or National authorities for aid. A pension should be given to such a family as this. Thornton is deserving of the care and attention which the nation gives to her wounded and maimed soldiers. I hope the attention thus called to his case by the powerful Times may lead the authorities of Kansas to extend an influence to the end that one who has suffered much through the cruelties of civil strife may be placed beyond want in his declining years. Truly I may exclaim with the reader, in closing this chapter of the Quantrell raid, Thornton is a hard man to kill.

The following statement under oath was made by claimant February 4, 1886:

I moved into the Territory of Kansas in the year 1857, and to the town of Lawrence in the year 1861, and have ever since resided there, and was a resident of said town on the 21st day of August, 1863, when said town of Lawrence was invaded by a band of rebel troops under command of one Quantrell, the town burned, and many of its citizens massacred. My business was that of a carpenter and builder, and I was so employed prior to the said August 21, 1863. I was then a married man, having dependent upon me for support a wife and one child, and also the aged mother of my wife. I was living at that time on Winthrop street, between New Hampshire and Rhode Island streets, in said town, and at the time of receiving the wounds and disabilities hereinafter spoken of was endeavoring to protect what little property I had from destruction, and in defending the lives of my wife and child and those dependent on me and under my charge.

I was set upon and attacked by two or three of the band of invaders, and was by them beaten and wounded in the following manner: I was fired upon and struck by a bullet which made a flesh wound in the upper portion of my left leg; a second shot fired at me took effect by striking me on the forehead just above the left eye, passing down cutting the lower eyelid and the left cheek. I was at this time in a stooping posture, struggling with *one of my* assailants, and was endeavoring to get possession

of his arms or pistol, being myself unarmed. I was again shot, the ball taking effect in my left leg just below the knee, and a second, that striking me on the same leg just above the ankle joint. Another shot took effect in my back, entering about the left shoulder blade, passing downward, came out near the right hip. Another that struck me on the right leg just above the knee joint, while still another entered my body in the right hip, entirely destroying the hip joint. In addition to these gunshot wounds I was beaten over the head with the revolvers in the hands of my assailants, receiving numerous scalp wounds. I was cared for and my wounds examined and dressed by Doctors Fuller, Prentiss, Sevier, and Yarnold.

From the effects of these wounds I was bedfast for about one year, during most of which time I was unable to turn or move myself in my bed. At various times afterwards my wounds troubled me by the sloughing off of the bones, and at one such time, about nine years after the wounds were inflicted, I was again bedridden for nearly a a year. By reason of such wounds I have been made a cripple for life, utterly unfitted to work at any part of my former trade, and have not been physically able since then to do what would be termed "a day's work." I am now fifty-six years of age and in feeble health, resulting from my wounds and the sufferings endured in the succeeding years, with a family dependent upon me. Whatever I had of personal property was burned and totally destroyed on that day by the burning of the house in which I was living, and for years I was compelled to depend largely upon the charities of my friends and the citizens of Lawrence.

Dr. Thomas Yarnold, for many years a resident of the city of Lawrence, in a sworn statement, made February 17 instant, testifies—

That he saw Mr. Thornton on the morning of August 21, 1863, at the time of the destruction of the town by Quantrell's band; that Thornton was prostrated by gunshot wounds when he first saw him, and he recalls the existence of at least five such wounds. I dressed his wounds and did what I could to make him comfortable. Mr. Thornton, prior to the receiving of these wounds, was an active, robust man, and his good, sound constitution had much to do with saving his life. For about one year he was confined to his bed and unable to turn himself. I have known him ever since that time and know his condition. He is and has been, ever since, a helpless cripple and an object of public charity.

Dr. S. B. Prentiss, also a resident of Lawrence for many years, and still a practicing physician there, says he knew Mr. Thornton at the time of the massacre, and ever since, they being much of the time neighbors; he has been Mr. Thornton's family physician.

His condition during all the years since 1863 has been that of a cripple, incapacitated to perform any manual labor, or in other words entirely disabled, and he has been an object of public charity.

Hon. C. W. Babcock, for thirty-one years a resident in and adjacent to Lawrence, says:

I was a prisoner in the hands of the invaders, and was an unwilling witness to the assault and deadly attempt on the life of Mr. Thornton. I saw him shot several times as he stood fighting to protect his wife and the helpless ones dependent on him. I saw him afterwards and have known him ever since. He was by said wounds made a cripple for life, and has been most of the time since an object of public charity. He is totally disabled and physically incapable of earning a support for either his family or himself.

During all the years that have passed since that eventful day this brave and heroic man has struggled to support himself and family by such light work as he could do, peddling small articles on the streets, which were purchased by benevolent people in order to assist him. To a large extent he has been dependent upon his noble, faithful wife and children, who shared with him the indescribable horrors of that day. The generous people of that historic city have cheerfully rendered them aid from time to time in their labor of love for the husband and father. Their only source of income has been from the labor of their hands, and they needed the united help of the entire family.

For the past two years the wife and mother has been added to the list of invalids, her health and strength having completely given out by reason of the long-continued overwork she was compelled to do to keep

grim visage of poverty from the door. Since she has been unable ssist in the care of the family and has become dependent on the ers whom she so long and so lovingly assisted, grim want has been miliar guest in that household.

his is one of the saddest cases that has ever been before your com- tee. In heroic bravery, in terrible suffering, long continued, in pa- it labor to provide for their daily wants under adverse circumstances, l in loving, trusting resignation, it has never been excelled.

Your committee recommend the passage of the bill.

[ CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
t Session. } { No. 653.

# WILLIAM CHRISTIE.

UARY 23, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

SAWYER, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 5024.]

*Committee on Invalid Pensions, to whom was referred House bill 5024, beg leave to submit the following report:*

e committee find the facts as follows: The claimant enlisted De-er 2, 1863, in Company A, Seventh New York Heavy Artillery, as discharged for disability February 8, 1864. The certificate of s E. Pomfret, surgeon of said regiment, states as follows:

l him incapable of performing the duties of a soldier, because of enlarged joints ands from chronic rheumatism, preventing flexion of the right hand.

ober 24, 1879, he was allowed a pension at the rate of $8 per month, was increased to $12 per month May 16, 1881. Some time about nber, 1882, information was conveyed to the Commissioner that aimant had been troubled with rheumatism before his enlistment. elter, of Troy, N. Y., was written to, and requested to communicate e facts of which he had any knowledge, together with the names addresses of other persons acquainted with the facts, the result of a was an order was made for a special examination of Mr. Christie. examination was had in the month of April, 1883, and the testimony me twenty witnesses taken.

ie of the principal witnesses against the claimant was Thomas her, who, with his wife, testified strongly against the claimant. Felter was also examined, and testified that he was a physician, had been the family physician of the claimant. He says, when d as to his physical condition:

ll, all that I now remember of him is that he had the inflammatory rheumatism. ipression is that he had it more than once, but I am willing to swear that he had e during the time I was his physician. I have a record of the treatment, but record it is I am not positive. I have records of treating him from the 1st to nnary, 1861. It says on the book it was to visit him personally. This record re- him, although there are other records which do not state who of his family eated. I have no doubt this treatment, from the 1st to the 6th of January, was umatism.

ere were seven other witnesses examined on the part of the office, gave evidence tending to show that the claimant had been troubled rheumatism *prior to* his enlistment. They spoke of his hand be-

ing deformed, which attracted their attention and which they supposed was occasioned by rheumatism. One witness says:

I noticed that he had crooked fingers, because he was a cigar-maker and I saw him making cigars.

None of the last seven witnesses testify as to any knowledge of his having the rheumatism. One of them speaks of having been informed by claimant that he had had the inflammatory rheumatism. These witnesses do not entirely agree as to the hand upon which the crooked fingers were, or the number of fingers that were crooked.

On the part of the claimant seven witnesses were sworn, besides himself. These witnesses testify that the claimant prior to his enlistment was a sound, healthy man. They never knew or heard of his having any rheumatic difficulty, although some of them speak of his having a crooked little finger on the right hand.

All the witnesses, on both sides, had been acquainted with the claimant for a number of years, some a greater and some a less length of time, before his enlistment.

As the result of this examination the claimant was dropped from the rolls in January, 1883. Subsequently the claimant made application to the Pension Department for re-examination, and, in accordance with his request, an examination was commenced March 26, 1884, with Edwin B. Smith as special examiner, A. I. Bush having been the first special examiner. At this examination some thirty-six witnesses were sworn.

On this last examination, Dr. Felter testifies that he treated the claimant for rheumatism from the 1st to 6th of January, 1861, both inclusive; that the claimant was sick and was confined to his house during all this time.

My impression is that his condition was such that he could not come to my office. During this same time I was treating Mr. Frear, the father of the claimant's wife.

Dr. Felter stated to the examiner, as appears by the examiner's report, that he did tell Mr. and Mrs. Christie that he did not know anything about this matter.

One of the main witnesses on the first examination against the claimant was Thomas J. Fletcher, who died while the second examination was in progress, and was therefore not examined on the second examination.

It appears from the testimony of Chauncey Frear:

Thomas Fletcher told me two months or so ago that, if he was a betting man, he would bet his house and lot that Christie would lose his pension.

This testimony seems to have cast a shadow somewhat over the testimony of Fletcher.

As to the testimony of Dr. Felter's visits to the claimant in January, 1861, it appears by the testimony of Chauncey Frear that, at this time, the claimant's wife was sick with the rheumatism, and was attended by Dr. Felter. It also appears, by the testimony of Mrs. Dorcas Wood, that during the month of January, 1861, the father of the claimant's wife was sick with his last sickness and was attended by the claimant, who took principal charge of him, and sat up with him at nights. This witness says she does not think it possible that the claimant could have been sick with the rheumatism, as testified to by Dr. Felter, and Mr. Smith, the special examiner, says:

It seems to me to be in claimant's favor that Thomas J. Fletcher, who died while my examination was in progress, in spite of his talk against claimant, as shown in the testimony of Joseph Green, could not testify more specifically against him.

It appears by the testimony of two witnesses that the claimant, at the time of his enlistment, was examined by Dr. Hubbell, in Troy. Dr. Hubbell testifies that he examined most of the recruits who enlisted in Troy at that time, but is unable to state whether he examined the claimant or not. When asked the question—

In case the claimant was examined by you, could he have been accepted in case his fingers had been crooked or contracted from rheumatism?

His answer was:

I have no hesitation in saying he could not have done so. Every man I examined was obliged to open and close his hands, in order to show that he had free use of his fingers, so that he could handle his musket.

Would a bent little finger prevent the acceptance of a recruit? It would not, provided the other fingers were straight.

John Hare was one of the witnesses who testified that Hubbell examined the claimant, and they were both examined the same day. Dr. Hubbell was asked:

Can you recollect John Hare, and whether you examined him at the time he enlisted?

In his answer he said:

I think I remember examining John Hare. I knew him prior to his enlistment, which causes me to remember it.

In addition to the testimony of the claimant, his wife, his two sisters-in-law, and brother-in-law all testify that the claimant never had rheumatism prior to enlistment, and that he was never treated by Dr. Felter. The examiner says:

These witnesses were all biased in favor of the claimant, but all, except the wife of the claimant, impressed me as being worthy of credence. I do not mean to say to the contrary of Mrs. Christie, but she was sick and nervous, and, I think, apt to confuse places and dates. She evidently tried to tell the truth.

Eleven witnesses, the neighbors and employers of the claimant, testify to his soundness prior to enlistment and the testimony of all of them is certified to be "fair," "good," or "excellent" by the examiner, with the qualification that two of them were very old and forgetful. Besides these, six others, neighbors, employers, or fellow-workmen, testify to his previous soundness, and their reputation is also certified to by the examiner as being "fair" and "good."

The numerous witnesses called against the claimant, with the exception of Dr. Felter, speak of the looks of his fingers or hands, disagreeing as to the hand which was affected and the fingers which are crooked, and having no personal knowledge of any disease which occasioned the difficulty with his hands. The testimony also shows that the claimant, prior to his enlistment, had been engaged, more or less, at his business as cigar-maker. The fact that he had a crooked little finger on his right hand is conceded by the claimant, and the testimony of the claimant is that he was born with this deformity. The examiner states that he inquired of Dr. Felter if a man could not have one or more crooked little fingers from birth, or without the cause being rheumatism, and he said that it must be the result of some accident when the person was young, and would not be apt to date from birth. The examiner continues:

I speak of this because my own father has two crooked little fingers, and has had them ever since I can remember, and I know that he has not had the rheumatism or experienced any pain from these fingers.

Besides the oral testimony an ambrotype of the claimant and w and child, taken the day before he enlisted, was produced on the amination. Of this picture the examiner says:

In this picture his hands are in a position that it seems to me would not be poss with crooked fingers.

The examiner, at the close of his report, says:

If the name of the claimant was on the pension-roll I should hesitate before rec mending that he should be barred on the evidence as it now stands.

In speaking of the picture, he further says:

I do not know the value of the evidence in the photograph, which may be con sive to the fact that claimant did not have crooked fingers.

In this case the question in dispute was not as to the condition of claimant at the time of the examination, for there seems to have b no dispute but that he was badly crippled from the effects of rheu tism, the only question being as to whether he was subject to rheumatism prior to his enlistment.

From a long and patient and thorough examination of the evide the committee is of the opinion that the name of the claimant should restored to the pension-roll as of the date when stricken therefro and, therefore, recommend that the bill do pass.

'H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
lst Session. } { No. 654.

# DR. WILLIAM H. SHEFFIELD.

RUARY 23, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

SAWYER, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4163.]

*Committee on Invalid Pensions, to whom was referred House bill* 4163, *beg leave to report:*

he claimant asks for a pension on the ground of disabilities incurred le acting as a voluntary surgeon at the hospital at Harper's Ferry, 1 September, 1862, to some time in November, 1862.

; appears, from the sworn testimony furnished the committee, that September, 1862, the claimant was a regular practicing physician, was at that time in good health, and with a strong, robust consti- on; that on learning that the portion of the United States Army ne Potomac then at Harper's Ferry were suffering from a malignant noid fever and from a lack of medical assistance, and at the request wo friends of his, who had a brother there sick with said disease, eft his home and practice and went to Harper's Ferry; that on ar- ng there and seeing the extent of the sickness and the scarcity of ical assistance he offered his services as a volunteer surgeon to Dr. nes D. Hewett, the surgeon then in charge of said hospital, which e accepted, and that thereupon claimant entered upon and continued he discharge of his duties to the best of his abilities, giving his ices day and night until he was himself stricken down with the e disease; that he remained there sick until about the 7th day of No- ber, 1862, when, upon the urgent advice of said surgeon in charge, tarted for his home; that on reaching the village of Canisteo on his home he was unable to proceed farther, and he was compelled to ain there some two months; that after his return home he contin- sick for a long time, and continued so feeble that he did not at- pt to resume the practice of his profession until the latter part of summer of 1863; that he found himself so enfeebled that he was ble to practice medicine, and that he has since been unable to fol- any other business.

hat for the first ten years after his said sickness his earnings did exceed $100 per year, and that since then his earnings have not ex- ded $25 per year, and that he still remains, from the result of his ness, entirely unable to pursue his profession or engage in any other ness, and that in his opinion his continued poor health is the result ne malignant typhoid fever he had while at Harper's Ferry.

ne good character of the claimant as a man and as a physician, the

fact that he was, when going to Harper's Ferry, in 1862, a strong, robust man, in vigorous health, that he came home from there sick and has ever since been broken down and in feeble health, and physically incapable of practicing his profession or performing manual labor is fully shown by the affidavits of six of his neighbors, who knew him before, at the time of, and since his going to Harper's Ferry.

Dr. Chamberlain, who had known the claimant before he went to Harper's Ferry, states in his affidavit that he saw him on his return; that he was then very sick, and that he has since been in a broken-down condition of health. That when he went to Harper's Ferry he was a strong, robust, and healthy man, and he and another physician personally acquainted with the claimant give the opinion that his present physical condition is the result of the severe fit of sickness at Harper's Ferry.

Dr. James D. Hewett in his affidavit states that he was, in the year 1862, first assistant surgeon of the One hundred and seventh Regiment New York Volunteers, and in charge of the hospital of the Third Brigade, First Division, Twelfth Army Corps, Army of the Potomac, during an epidemic of malignant typhoid fever, which broke out in the brigade to which he was attached after its exhausting march from the battle-field of Antietam to Harper's Ferry and Maryland Heights.

He further states—

> That at that time I was in want of adequate assistance in the care of the several hundred of our sick soldiers, and Dr. W. H. Sheffield, of Greenwood, Steuben County, New York, responded, among others, to our call for help, came from his home to our fever-stricken camp, and offered his professional services in the care of our sick. At much personal risk and sacrifice of his own comfort and safety he performed able and ungrudging service in forwarding my work in hospital. While on duty there he himself contracted the fever from exposure, overwork, and the privations of our camp life. I myself prescribed for him, but finally became convinced that his only chance of recovery lay in return home to be nursed and treated in a better way than our comparatively limited camp resources afforded. He returned home accordingly, and I have not seen him from that time to the present time. Although he recovered from the disease he seems to have done so with a shattered constitution, and his present invalid condition I believe to be the result of the malignant typhoid fever contracted while patriotically engaged in the service of his country in my fever hospital at Harper's Ferry at the time above specified.

The committee feel satisfied that the claimant has established a just and meritorious case.

We recommend that the bill be amended by inserting after the word "late," in the sixth line, the words "volunteer acting," and that the bill as amended do pass.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 655.

# HENRY LICHTY.

FEBRUARY 23, 1886.—Laid on the table and ordered to be printed.

Mr. SWOPE, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 1987.]

*The Committee on Invalid Pensions, having had under consideration the bill (H. R. 1987) granting a pension to Henry Lichty, have examined the same, and make the following report:*

Henry Lichty was mustered in September 16, 1861, and was discharged November 30, 1861. He claims a pension for varicose veins and rheumatism, contracted in the service.

Surgeon McKibben testifies that claimant was wholly unfit for duty when his attention was first called to him; found him simple, weak-minded, and should never have been enlisted. He was afterwards troubled with nostalgia (home-sickness), when, fearing he would die, he recommended his discharge.

There is no evidence showing that the alleged disability was contracted in the service. Those who had testified "now admit that they had no personal knowledge of the facts in the case. The statements of the applicant are contradictory, and in point of fact he is not competent to give any reliable testimony on account of being weak-minded."

Your committee are fully satisfied that the decision of the Pension Department was correct, and they therefore report the bill adversely and recommend that it lie on the table.

O

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 656.

# WILLIAM R. WEIMER.

FEBRUARY 23, 1886.—Laid on the table and ordered to be printed.

r. SWOPE, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 2094.]

*e Committee on Invalid Pensions, to whom was referred the bill (H. R. 2094) granting a pension to William R. Weimer, make the following report:*

William R. Weimer was mustered into service as private on the 24th tober, 1861, in Company C, Eighty-fourth Regiment Pennsylvania lunteers. He was discharged on surgeon's certificate of disability tober 1, 1862. He was drafted September 28, 1863, and assigned to ty as a private in Company I, One hundred and forty-ninth Pennvania Volunteers. He was discharged June 12, 1865, on surgeon's tificate of disability.

Claimant alleges that in October, 1863, he was wounded by a shell in t arm and shoulder, and claims a pension for disability resulting from d wound. A note of the Adjutant-General states:

o evidence of wounds on record of the regiment or command. Record of regint reports was never in action.

The certificate of B. M. Morrow, captain of Company C, Eighturth Regiment Pennsylvania Volunteers, says:

uring the last twelve months soldier has been unfit for duty all the time, being too for doing duty in the ranks, being mustered into service as a teamster. Owing to transportation being reduced, he is thrown on the company, also disabled from dling gun on account of broken arm.

The certificate of G. F. Hoop, surgeon Eighty-fourth Regiment, states t—

e is incapable of performing duties of soldier because of age (51 years), rheumaon of shoulder and arm, caused by fracture prior to enlistment.

This closes the record of his first enlistment.

B. F. Pope, assistant surgeon United States Army, states—

hat claimant was admitted to hospital, Alexandria, Va., November 4, 1863, and nsferred to Veteran Reserve Corps August 31, 1864; cause not given; that he was nitted to Lincoln general hospital January 11, 1865; diagnosis, incontinence of ne, with injury of shoulder from shell; and discharged the service June 12, 1865.

Dr. McKee, surgeon United States Army, in his discharge, dated ne, 1865, states:

e is incapable of performing the duties of a soldier, because of debility of left arm m gunshot wound received in a skirmish in Valley of Virginia, and chronic rheumtism from *exposure in service.*

This is all of the medical record of his second period of service.

D. L. Hayes and G. W. Smith examined claimant Nov. 7, 1877, and state:

There seems to be some slight rigidity of the glenoid ligaments of left shoulder. The acromion process is probably a little more depressed than in the right shoulder, though there is not the slightest scratch, mark, or sign of shell or gunshot wound. The conditions of shoulder could have resulted from either a recent or old luxation, or from rheumatism. Also, gunshot cicatrix involving the skin, no disability.

In examination made July 19, 1882, by examining board of surgeons, it is stated that there is no disability resulting from the service. They say:

This old man is quite feeble; no wound of shoulder, but a dislocation, he says, which was reduced. No signs of any physical disability in consequence of wound to shoulder.

There is in addition some evidence on file given by a local physician, which, however, has not impressed this committee favorably, and which they do not consider it necessary to give in this report. An examination of the foregoing statements discloses the fact that, though this soldier was discharged from the service by reason of disability, alleged to have been incurred before enlistment, and also by reason of his being fifty-one years of age, he was again drafted and assigned to duty—a fact which your committee do not attempt to explain. But they find that, whilst he seemed to have suffered from rheumatism and incontinence of urine during his time of service and at the period of his discharge, yet the testimony of two boards of examining surgeons is clear and explicit as to the fact of there being no disability, nor any traces, except very slight, of a wound having been received.

The committee therefore report adversely and recommend that the bill lie on the table.

C

ı CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
ıt Session. } { No. 657.

# MARION CLARK.

FEBRUARY 23, 1886.—Laid on the table and ordered to be printed.

ƷWOPE, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 3636.]

*Committee on Invalid Pensions, to whom was referred the bill (H. R. 36) granting a pension to Marion Clark, having considered the same, pectfully report:*

ırion Clark enlisted August 30, 1864, as a private in Company D, ıty-second Regiment Pennsylvania Cavalry, and was discharged 24, 1865.

ɜ claims a pension for rheumatism contracted in the service at Mud k, W. Va., from which he has never recovered. The claim was re- d "because there is no record of alleged rheumatism, and claimant ıable to prove by reliable testimony based upon personal knowledge it originated in the service."

ıe volume of testimony in this case is almost appalling, and the brief is "as long as the moral law." There is no question as to claim- soundness prior to enlistment, and there is as little doubt as to his ɡ a frequent sufferer from either rheumatism or lumbago after his ıarge from the Army, though the board of examining surgeons fail ıtect any physical evidences of disability resulting from rheumatism. xistence is more a matter of complaint on the part of the claimant, ed up by a great deal of testimony given by his neighbors and ac- ıtances as to his inability to do a day's work without consequent ıess and suffering. There is also the evidence of a physician to the effect. So that there remains no doubt in the minds of your com- ɜe as to the existence of the disability at the present time. The question remaining is as to whether the disease originated in the ce.

mrade Thomas J. Crage says he was intimate with claimant in serv- ınd knew him slightly before; were tent-mates together for six s. There was nothing wrong with claimant at that time or at any in service, to deponent's knowledge; saw him nearly every day and d with him; never heard him complain of rheumatism at any time. , few years after the war saw claimant in tavern, and saw him tight . He also states that claimant told him that he was in Company ghth Pennsylvania Reserves, at one time; got no pay and left.

Another comrade, H. Kerr, testifies that he was quite intimat quainted with claimant whilst in the service.

Can't say that he knew that claimant incurred any disability in the servic his being off duty by reason of sickness. Claimant was not a willing soldier; growl when put on duty. I knew he took a "French" once and came hom him occasionally for a few years after the war in tavern; never noticed any di nor heard any complaint.

There are many pages of evidence by comrades to the same ef that given above, so that your committee are forced to the con that this claimant's rheumatism or lumbago was not contracted service and in the line of duty, and they therefore report adverse ask that the bill lie on the table.

C

CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
t Session. } { No. 658.

# MARY ANN WESNER.

FEBRUARY 23, 1886.—Laid on the table and ordered to printed.

WOPE, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 1991.]

*Committee on Invalid Pensions, to whom was referred the bill (H. R. 91) granting a pension to Mary Ann Wesner, dependent mother of cob Wesner, make the following report:*

cob Wesner was enlisted November 7, 1867, and was assigned to pany D, Seventeenth Regiment United States Infantry. He is re- d sick at post hospital, Galveston, Tex., and same report to June 868. He died February 22, 1869, in the guard-house, of chronic olism. All the records of this case show the same cause of this er's death, and there does not appear to be any question about it. view of this fact, the committee sustain the decision of the Pension e, which rejected this claim on the ground that claimant's death not occur in the line of duty," and report adversely, and ask that ill lie on the table.

O

:H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
1st Session. } { No. 659.

# JULIA SPENARD.

FEBRUARY 23, 1886.—Laid on the table and ordered to be printed.

. HAYNES, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4397.]

: *Committee on Invalid Pensions, to whom was referred the bill (H. R. 4397) to pension Julia Spenard, submit the following report:*

Benjamin Spenard was pensioned for loss of leg by gunshot wound le serving as private in Company G, Eleventh Vermont Volunteers. died at Montpelier, Vt., May 21, 1879, of consumption, and claim of ia Spenard, his widow, was rejected on ground that fatal disease did originate in service and was not due to service. There seems to 'e been no effort made to cover these vital points in establishing the ow's claim. But two affidavits were filed in its support, both by E. Templeton, M. D., who treated the soldier, and who certifies that fall before he died he took a severe cold which ran into consump-ı. His last affidavit is as follows:

Would say, in addition to what I stated in my other affidavit, that during the three 's of my acquaintance with Benjamin Spenard next prior to his death his lungs ə weak and irritable, and I considered him predisposed to consumption. I attend-im through several attacks of bilious fever during that time. During each of ı attacks he would be laid up from one to two weeks. As soon as he got fairly er the control of medicine he would recover. His constitution seemed to be broken n during this time. He was a shoemaker by trade and was poor and was obliged 'ork beyond his ability to labor. His general health and strength was greatly aired on account of his broken-down condition, to which the loss of his limb con-uted. I cannot say that Mr. Spenard had consumption prior to the time he con-ted the severe cold which I mentioned in my other affidavit, but he was in that k and debilitated condition at the time that rendered him liable to be carried off ny attack of acute disease. I would further say that Mr. Spenard during the three years was very liable to colds, and that I treated him for his cough fre-ıtly. At such times he would have headache, and sometimes vomiting, and have ive up labor for a time.

his committee are of opinion that the connection between soldier's ıbility and fatal disease is too remote. It rests upon a single sug-tion that the loss of limb contributed with other causes to his broken-n condition. With this view we must report the bill adversely.

O

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 660.

# CASES IN COURT OF CLAIMS.

BRUARY 23, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

r. WILLIAM WARNER, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill H. R. 1357.]

*e Committee on Claims, to whom was referred House bill* 1357, *have had the same under consideration, and respectfully report:*

That this is the same bill which at the last Congress was passed by e Senate, after mature consideration, and was considered and ap- oved by the Committee on Claims of the House of Representatives, t for want of time no action was had upon it by the House.

The facts of the case are substantially as follows:

In the year 1857 Charles A. Perry & Co. and Joseph C. Irwin & Co. re engaged in transporting merchandise from the Missouri River to t Lake City, Utah, and for that purpose had procured all the nec- ary outfit of wagons, work oxen, mules and horses, and all else nec- ary to carry on their business.

n June, 1857, they proceeded on their journey across the plains, and hout accident or interruption they arrived at a place known as velly Ford, on the Sweetwater River, where they halted to rest; and in, who was personally in charge of his own trains, went up towards Wind River to meet General Landers, who was there looking after construction of a military road, and desired to see him. On his re- to Gravelly Ford, he found some United States troops there, who, n the freighters proposed to move forward. peremptorily ordered n to remain, which they were forced to do. Afterwards Col. Al- Sidney Johnston arrived with his command, destined for Salt e City, and issued orders compelling the merchant trains to form a t of the column of march and to move only as the army and army ns moved. Nor would he allow these merchant trains to leave the ition assigned them in the military column under any consideration tever, either to go forward, backward, or to one side, and the ers and employés of the merchant trains had to be enrolled and re- ed daily, the same as employés in the quartermaster's department. he position assigned to these merchant trains was generally in the of the quartermaster's trains, and the live stock suffered greatly want of food. There being such a great number of animals together, grass at their encampments was insufficient for the whole number, those that got in first consumed the grass and left very little for se who got in last. The movements of the column were necessarily y, much *slower than the* merchant trains usually moved, and the

winter coming on early in November, the whole country was soon enveloped in snow. This added greatly to the distress of the stock, which were unprovided with forage. The stock of the trains became mixed and confused, and the work animals of the freighters were used indiscriminately for Government uses.

At last the snow became so deep that the army was compelled to go into winter quarters, and then General Johnston proceeded to avail himself of every possible means to subsist his army. The best of the work oxen, including those of the freighters, were slaughtered and the meat issued as rations to the troops. When expostulated with by the freighters, he assured them that it was a necessity, and that the Government would pay them for their property.

At that time their only remedy for such compensation was under and by virtue of the act of March 3, 1849, which provided for compensating owners of property impressed into the military service of the United States, and the Third Auditor alone was authorized to examine and adjust and to declare the result. There was no appeal from his ruling until by the act of July 28, 1866 (sec. 8, Stat. L., vol. 14, p. 327), a supervisory power over him was given to the Second Comptroller. None but the accounting officers had any control over such claims, and they were to be governed by "such rules as shall be prescribed by the Secretary of War, under the direction or with the assent of the President of the United States," &c. (Stat. L., vol. 9, p. 415, sec. 3). The Secretary of the Treasury never had any control over this class of claims, nor could a claimant bring suit in the Court of Claims, because the act of March 3, 1849, referred them especially to the Third Auditor.

They could not properly be called claims against any Executive Department, such as is contemplated by section 1063 of the Revised Statutes; but even if there should be any doubt about that, they are barred from the Court of Claims by the *proviso* to that section, because they were not of a class of cases "which, by reason of the subject-matter and character, the said court might, under existing laws, take jurisdiction of, on such voluntary action of the claimant."

These claims having been presented to the Third Auditor, a discussion arose as to whether the property was impressed into the military service. The Third Auditor had some doubts, and the matter lingered until after the civil war commenced, when for several years no attention was given to them. About the year 1867 the subject was again called up and the same discussion gone over, the accounting officers having no authority to act upon the claims upon their merits unless there was an impressment. It has never been disputed but that the property was taken and used as alleged by the claimants, but unless there was an actual impressment these officers had no jurisdiction. The Second Comptroller finally concluded that the cases ought to go to the Court of Claims, and so recommended; but, as above shown, the Court of Claims had no jurisdiction, and the claimants have for several years been calling on Congress to confer that jurisdiction on the court, and the committee consider that under the circumstances equity and justice require that it should be done.

The property of the claimants was undoubtedly taken for public uses, and the Constitution declares that this shall not be done without making just compensation for it.

Your committee therefore report the bill back to the House with recommendation that it do pass.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 661.

# CLAIMS OF STEAMSHIP COMPANIES.

FEBRUARY 23, 1886.—Referred to the Committee of the Whole House and ordered to be printed.

Mr. BUCHANAN, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill H. R. 4583.]

*The Committee on Claims, to whom was referred the bill (H. R. 4583) authorizing the Secretary of the Treasury to render final adjustment of claims of certain foreign steamship companies arising from the illegal exaction of tonnage dues, would respectfully report:*

That this bill was before the Committee on Foreign Relations of the Forty sixth Congress, and also of the Forty-eighth Congress, and reported in each instance favorably. The report in the Forty-eighth Congress (No. 1568, first session), embodying the report in the Forty-sixth Congress, is hereto appended.

For the reasons set forth in said report your committee recommend the passage of the bill.

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[House Report No. 1568, Forty-eighth Congress, first session.]

*The Committee on Foreign Affairs, to whom was referred the bill (H. R. 1062) authorizing the Secretary of the Treasury to make final adjustment of claims of certain foreign steamship companies arising from the illegal exaction of tonnage duties, respectfully report:*

The matters arising herein were thoroughly and exhaustively considered by this committee in the Forty-sixth Congress, and a very able report made thereon, by Hon. Mr. Rice, then and now a member of the committee, was favorably considered by the committee.

The 9th article of the treaty of 1827 between the United States and the Hanseatic Republic is as follows:

"ART. 9. The contracting parties, desiring to live in peace and harmony with all the other nations of the earth by means of a policy frank and equally friendly with all, engage mutually not to grant any particular favor to other nations in respect of commerce and navigation which shall not immediately become common to the other party, who shall enjoy the same freely, if the concession was freely made, or on allowing the same compensation, if the concession was conditional."

This treaty is still in force. (See letter Secretary State in H. Rep. No. 124, part 2, page 29, second session Forty-fifth Congress.)

Subsequently a treaty was ratified with Belgium, July 18, 1858, article 4 of which is in the following words:

"Steam-vessels of the United States and Belgium engaged in regular navigation between the United States and Belgium shall be exempt in both countries from the payment of duties of *tonnage, anchorage*, buoys, and light-houses."

This treaty was abrogated July 1, 1875. (See notes to Treaties and Conventions concluded since May 1, 1870, *p. 1261.*)

From this it will appear that the United States agreed not to grant any particular favor to other nations in respect of commerce and navigation which should not immediately become common to the Hanseatic Republics.

By the fourth article of the treaty of July 17, 1858, with Belgium, quoted above, the United States directly stipulated that steam-vessels engaged in regular navigation between them and Belgium should be exempt from the payment of duties on tonnage, anchorage, buoys, and light-house charges. This favor having been extended to Belgium, it immediately attached, under the foregoing ninth article of the Hanseatic treaty, to the steamships of the lines above referred to, both plying between the ports of Bremen and Hamburg (Hanseatic Republics) and ports of the United States. It is manifest that after July 17, 1858, the lines of steamships from Belgium and the Hanseatic Republics were upon precisely the same footing.

For thirty years anterior to July, 1862, tonnage duties were not levied or collected by the United States on vessels of foreign countries. The necessities of the Government at this time, however, compelled the imposition of tonnage duties, when an act was passed July 14, 1862, entitled "An act increasing temporarily the duties on imports, and for other purposes," providing—

"That upon all ships, vessels, or steamers, which, after the 31st day of December, 1862, shall be entered at any custom-house in the United States, whether ships or vessels of the United States or belonging wholly or in part to subjects of foreign powers, there shall be paid a tax or tonnage duty of ten cents per ton of the measurement of said vessel in addition to any tonnage duty now imposed by law. * * * *Provided*, That nothing in this act contained shall be deemed in any wise to impair any rights and privileges which have been or may be acquired by any foreign nation under the laws and treaties of the United States relative to the duty on tonnage of vessels."

The act of March 3, 1865, amended the foregoing act by inserting *thirty* cents per ton in lieu of "ten" cents.

It was the manifest duty of the Secretary of the Treasury, upon the passage of the above law and before proceeding to administer it, to have caused a careful examination of the treaties with various foreign nations to learn what countries, if any, were exempt from the imposition of such duties.

The Secretary of the Treasury, however, immediately on the passage of the act of July 14, 1862, issued his instructions, in the form of circulars, to the collectors of the ports of New York, Baltimore, and New Orleans, making no exception of the vessels so exempted, but required the tonnage-tax to be levied and collected indiscriminately upon these vessels, notwithstanding the Attorney-General (Opinions, vol. 10, p. 481) had advised the Secretary of certain exemptions from the operation of said act by virtue of certain treaties.

The North German Lloyd Steamship Company accordingly paid, at the ports of New York, Baltimore, and New Orleans, as tonnage duties on vessels of their line thus exempted, the sum of $130,800.09, and the Hamburg-American Packet Company also paid the sum of $130,119, covering the period in both cases from December 31, 1862, to July 1, 1875, as appears by the books of the Treasury Department and by House Ex. Doc. No. 76, third session Forty-fifth Congress.

No laches can be imputed to the claimants in not having made prompt demand upon the United States for restitution.

The tax was first paid in 1863. Until 1867 the claimants had no knowledge that their lines were exempt. They were naturally misled by the Secretary of the Treasury, whose instructions to collectors were to levy tonnage indiscriminately.

The exemption depended as much upon the fourth article of the treaty with Belgium as upon the treaty with the Hanseatic Republics, since only by their concurrent operation was this privilege conferred. The exemption was nevertheless a plain and positive one, and the officers of the United States were clearly in the wrong in imposing and enforcing the collection of such duties. This is now admitted on all hands. We find no necessity of setting forth here the various diplomatic correspondence on the subject, and the decisions of the Secretary of State, and Secretary of the Treasury, and the Attorney-General, all of which hold that the treaty obligations of the United States were clearly violated. These are fully set forth in House Ex. Doc. No. 62, first session Forty-fourth Congress, and in House Report No. 124, second session Forty-fifth Congress, parts 1 and 2.

On the 19th June, 1878, Congress passed the following act, the bill having been maturely considered by the Committee on Foreign Affairs of the House of Representatives and the Committee on Finance in the Senate:

"AN ACT to amend section twenty-nine hundred and thirty-one of the Revised Statutes of the United States so as to allow repayment by the Secretary of the Treasury of the tonnage tax, where it has been exacted in contravention of treaty provisions."

"*Be it enacted* by the Senate and House of Representatives of the United States of *America in Congress assembled*, That the provisions of section twenty-nine hundred and thirty-

one, of chapter six, title thirty-four of the Revised Statutes, shall not apply to cases of the payment of tonnage tax on vessels where the Secretary of the Treasury and Attorney-General shall be satisfied that the exaction of such tax was in contravention of treaty provisions; and he may draw his warrant for the refund of the tax so illegally exacted, as is provided in section three thousand twelve and one-half of said statutes: *Provided*, That this act shall not be construed to authorize the refunding of any tonnage duties whatever exacted prior to the first day of June, eighteen hundred and sixty-two; nor shall it apply to cases of the payment of tonnage tax heretofore made on vessels other than those of the Hanseatic Republics, and Sweden and Norway."

The object of this act was to authorize the refund of the tonnage duties so illegally exacted from the companies in question, relieving them from the necessity of making protest against payment within the thirty days required by the act of June 30, 1862, above referred to.

Under this act the North German Lloyd Company presented its claim for $130,785, as principal of duties paid, and $80,737.50, as interest at 6 per cent. per annum to August 8, 1878; and the Hamburg-American Packet Company presented its claim for $130,119, as principal of duties paid, and for $75,069.27, as interest on the same at 6 per cent. per annum to July 1, 1878.

In August last the amounts named as *principal* were paid by the Treasury Department to the two companies and accepted by them under protest, and the question now before your committee is the one embracing this claim for interest, referred to it by the letter of the Secretary of the Treasury, to be determined under the principles of international law; and the inquiry presented is, what shall be the just measure of reparation for an injury inflicted upon a foreign and friendly power in contravention of the solemn treaty obligations of the United States.

It is one of the highest national importance, not because it demands a considerable sum of money, but because it involves a question of national honor, and its determination will sanction a principle to which the Government will henceforth stand committed in the enforcement of its own demands against foreign powers.

The cause of said act of Congress authorizing a refund was the fact that the United States had violated treaty obligations by the exaction of moneys it had no right to receive. It has held these moneys for years, depriving the lawful owners of their use, benefit, and profit. We think it very plain that the United States, according to principles of public law, cannot make just or complete reparation for this wrong without now determining that it will pay interest, at a reasonable rate, on the moneys thus wrongfully exacted and withheld to the injury of the other party to the compact.

Pending the consideration of the bill in the Senate, the Hon. Justin S. Morrill, chairman of the Committee on Finance (from which committee the bill was reported), in a letter addressed to the Secretary of the Treasury under date of April 8, 1878, submitted, among others, the following inquiry: "Again, let me ask you whether, if nothing is said in the act as to the payment of interest, you would pay any?" To this the Secretary of the Treasury, under date of April 15, 1878, replied:

"You further inquire whether, if nothing be said in the act about payment of interest, this Department would pay interest on the amounts originally exacted. I reply that the question whether interest should be paid on the original claim would depend on the obligations of the Government under the treaty stipulations referred to, *as such stipulations are ordinarily construed by the law of nations.*"

Nevertheless, the Secretary of the Treasury, on more mature consideration, and after obtaining the decision of the Attorney-General thereon, determined that he was not permitted to pay the interest under the peculiar phraseology of the act, and recommended further legislation by Congress.

It only remains to show, by the recognized authorities on international law, what the just obligations of the United States are under the treaty stipulations referred to, "as such stipulations are ordinarily construed by the law of nations."

It is sometimes asserted that "the *Government* never pays interest." This assumption doubtless arises from two ideas, viz, the *principle* that interest is often allowed in the nature of damage for money *wrongfully withheld;* and the common law *fiction*, that the sovereign can do no wrong and can be guilty of no laches; therefore, the Government cannot be chargeable with interest. The idea may also have obtained acceptance from the custom and usage of the accounting officers and Departments refusing to allow interest generally in their accounts with disbursing officers, and in the settlement of unliquidated domestic claims arising out of dealings with the Government. It will hardly be pretended, however, that this custom or usage is so "reasonable," well known, and "certain" as to give it the force and effect of law.

But it is submitted that even were it true that the Government, as a rule, pays no interest to its own citizens, the fiction that "the sovereign can do no wrong" can be in-

ing which the strictest caution is enjoined not to transcend the cleare
Mr. Wheaton, in his work on the law of nations, says:

"If a nation has taken possession of that which belongs to another,
PAY A DEBT, to repair an injury, or to give adequate satisfaction for i
seize something of the former and apply it to [his] its advantage till it
of what is due, together with INTEREST and damages." (Wheaton
Law, p. 341.)

Domat thus states the law of reason and justice on this point:

"It is a natural consequence of the general engagement to do wro
they who cause any damages, by failing in the performance of that
obliged to repair the damage which they have done. Of what natu
age may be, and from what cause soever it may proceed, he who is
ought to repair it by an *amende* proportionable either to his fault o
other cause on his part, and to the loss which has happened thereby
I, Book III, Title V, 1900, 1903.)

"Interest" is, in reality, in justice, in reason, and in law, too, a
due. It includes, in Pothier's words, the loss which one has suffe
which he has failed to make. The Roman law defines it as "*quant
id est, quantum mihi abest, quantumque lucraci potui.*" The two element
"*lucrum cessans et damnum emergens.*" The payment of both is neces
indemnity.

"Interest," Domat says, "is the reparation or satisfaction whic
sum of money is bound to make to his creditor for the damage whic
not paying him the money he owes him."

It is because of the universal recognition of the justice of paying, f
moneys indisputably due and payable immediately, a rate of interest
fair equivalent for the loss of its use, that judgments for money everyw
The creditor is deprived of this profit and the debtor has it. What g
the law permit than that the debtor should be at liberty indefini
ment, and, during the delay, have the use of the creditor's moneys fo
are none the less the creditor's moneys because the debtor wrongfull
He holds them, in reality and essentially, in trust; and a trustee is
pay interest upon moneys so held.

In closing these citations from the public law, the language of Char
eminently appropriate. He says:

"In cases where the principal jurists agree the presumption will be
of the solidity of their maxims, and no civilized nation that does not
ordinary law and justice at defiance will venture to disregard the unif
lished writers on international law." (1 Kent Com. 19.)

decision. At an early stage of the proceedings the question arose as to whether *interest* was a part of that "*just indemnification*" which the decision of the Emperor of Russia contemplated. The British commissioner denied the obligation to pay interest. The American commissioner, Langdon Cheves, insisted upon its allowance, and, in the course of his argument upon this question, said:

"Indemnification means a reimbursement of a loss sustained. If the property taken away on the 17th of February, 1815, were returned now uninjured, it would not reimburse the loss sustained by the taking away and consequent detention; it would not be an indemnification. The claimant would still be unindemnified for the loss of the use of his property for ten years, which, considered as money, is nearly equivalent to the original value of the principal thing."

Again, he says:

"If interest be an incident usually attendant on the delay of payment of debts, damages are equally an incident attendant on the withholding an article of property."

In consequence of this disagreement, the commission was broken up; but the claims were subsequently compromised by the payment of $1,204,960, instead of $1,250,000, as claimed by Mr. Cheves; and of the sum paid by Great Britain, $418,000 was expressly for interest.

The propriety of this claim for interest was subsequently submitted to William Wirt, then Attorney-General, for his opinion. Mr. Wirt said:

"I am of the opinion that the just indemnification awarded by the emperor involves not merely the return of the value of the specific property, but a compensation also for the subsequent use and wrongful detention of it in the nature of damages. * * * I am of opinion that the interest, *according to the usage of nations*, is a necessary part of the just indemnification awarded by the Emperor of Russia." (Opinions Attorneys-General, vol. 2, p. 33."

An earlier case, in which this principle of interest was involved, arose under the treaty of 1794 between the United States and Great Britain, in which there was a stipulation on the part of the British Government in relation to certain losses and damages sustained by American merchants and other citizens by reason of the illegal or irregular capture of their vessels or other property by British cruisers; and the seventh article provided in substance that "full and complete compensation for the same will be made by the British Government to said claimants."

A joint commission was instituted under this treaty, which sat in London, and by which these claims were adjudicated. Mr. Pinckney and Mr. Gore were commissioners on the part of the United States, and Dr. Nicholl and Dr. Swabey on the part of Great Britain; and it is believed that in all instances this commission allowed interest as a part of the damage. In the case of "The Betsey," one of the cases which came before the board, Dr. Nicholl stated the rule of compensation as follows:

"To reimburse the claimants the original cost of their property, and all the expenses they have actually incurred, together with interest on the whole amount, would, I think, be a just and adequate compensation. This, I believe, is the measure of compensation usually made by all belligerent nations, and accepted by all neutral nations, for losses, costs, and damages occasioned by illegal capture." (*Vide* Wheaton's Life of Pinckney, p. 198; also p. 205; note, p. 371.)

By reference to the American State Papers (Foreign Relations, vol 2, pages 119, 120), it will be seen by a report of the Secretary of State of the 16th February, 1798, laid before the House of Representatives, that interest was awarded and paid on such of these claims as had been submitted to the award of Sir William Scott and Sir John Nicholl, as it was in all cases by the board of commissioners. In consequence of some difference of opinion between the members of this commission, their proceedings were suspended until 1802, when a convention was concluded between the two Governments, and the commission reassembled, and then a question arose as to the allowance of interest on the claims during the suspension. This the American commissioners claimed, and though it was at first resisted by the British commissioners, yet it was finally yielded, and interest was allowed and paid. (See Mr. King's three letters to the Secretary of State, of 25th March, 1803, 23d April, 1803, and 30th April, 1803, American State Papers, Foreign Relations, vol. 2, pp. 387, 388.)

Another case in which this principle was involved arose under the treaty of the 27th October, 1795, with Spain, by the twenty-first article of which, "in order to terminate all differences on account of the losses sustained by citizens of the United States in consequence of their vessels and cargoes having been taken by the subjects of His Catholic Majesty during the late war between Spain and France, it is agreed that all such cases shall be referred to the final decision of commissioners, to be appointed in the following manner," &c. The commissioners were to be chosen, one by the United States, one by Spain, and the two were to choose a third, and the award of the commissioners, or any two of them, *was to be final, and the Spanish* Government to pay the amount in specie.

This commission awarded interest as part of the damages. (See American State Papers, vol. 2, Foreign Relations, p. 283.)

So, in the case of claims of American citizens against Brazil, settled by Mr. Tudor, United States minister, interest was claimed and allowed. (See House Ex. Doc. No. 32, first session Twenty-fifth Congress, p. 249.)

Again, in the convention with Mexico of the 11th of April, 1839, by which provision was made by Mexico for the payment of claims of American citizens for injuries to persons and property by the Mexican authorities, a mixed commission was provided for, and this commission allowed interest in all cases. (House Ex. Doc. No. 291, Twenty-seventh Congress, second session.)

So, also, under the treaty with Mexico of February 2, 1848, the board of commissioners for the adjustment of claims under that treaty allowed interest in all cases from the origin of the claim until the day when the commission expired.

So, also, under the convention with Colombia, concluded February 10, 1864, the commission for the adjudication of claims under that treaty allowed interest in all cases as a part of the indemnity.

So, under the recent convention with Venezuela, the United States exacted interest upon the awards of the commission, from the date of the adjournment of the commission until the payment of the awards.

The recent Mixed American and Mexican Commission allowed interest in all cases from the origin of the claim, and the awards were paid with interest.

The distinguished tribunal at Geneva, under the treaty of Washington, allowed interest on the claims of the United States against Great Britain as being "*just and reasonable.*"

In discussing the measure for determining damages to be awarded against Great Britain by the tribunal at Geneva, the eminent counsel of the United States, Mr. Evarts, Mr. Cushing, and Mr. Waite, contended as follows:

"The counsel assume that interest will be awarded by the tribunal as an element of the damage. We conceive this to be conformable to public law and to be required by paramount considerations of equity and justice."

The counsel thereupon cited the then recent decision by Sir Edward Thornton, the British minister at Washington, as umpire of a claim on part of the United States against Brazil, which held that the claimants were entitled to interest by the same right that entitled them to reparation—the interest allowed being $45,077, nearly half the total award of $100,740. The counsel for the United States further relied upon the awards under the treaty of Ghent and the Jay treaty, herein elsewhere referred to, as marked precedents for the allowance of interest.

The counsel on behalf of Great Britain, while objecting to the principle urged by the United States as not being applicable to *unliquidated* claims, nevertheless admitted its reason or justice as to liquidated or ascertained claims in the following words:

"Interest, in the proper sense of that word, can only be allowed where there is a principal debt of liquidated and ascertained amount detained and withheld by the debtor from the creditor after the time when it was absolutely due and ought to have been paid. the fault of the delay in payment resting with the debtor, or where the debtor has wrongfully taken possession of and exercised dominion over the property of a creditor. In the former case, from the time when the debt ought to have been paid, the debtor has had the use of the creditor's money and may justly be presumed to have employed it for his own profit and advantage. He has thus made a gain corresponding with the loss which the creditor has sustained by being deprived, during the same period of time, of the use of his money, and it is evidently just that he should account to the creditor for the interest, which the law takes as the measure of this reciprocal gain and loss. In the latter case, the principle is exactly the same; it is, ordinarily, to be presumed that the person who has wrongfully taken possession of the property of another has enjoyed the fruits of it; and if instead of this he has destroyed it, or kept it unproductive, it is still just to hold him responsible for interest on its value, because his own acts, after the time when he assumed control over it, are the causes why it has remained unfruitful. In all these cases it is the actual or virtual possession of the money or property belonging to another which is the foundation of the liability of interest. The person liable is either *lucratus* by the detention of what is not his own, or is justly accountable as if he were so."

And in pursuance of the principles thus asserted, the exalted tribunal at Geneva allowed interest on the demands of the United States against Great Britain, in the following words:

"And whereas it is *just and reasonable* to allow interest at a reasonable rate." (See decision and award of the arbitrators.)

In Judge Hale's report of November, 1873, to the Secretary of State, of claims before the American British Mixed Commission under article 12, of the treaty of 8th of May, 1871, he says:

"The commission ordinarily allowed interest at the rate of 6 per cent. per annum

from the date of the injury to the anticipated date of the final award." (Ex. Doc., part 1, 1st session 43d Congress. Part 2, Foreign Affairs, p. 21.)

It can hardly be necessary to pursue these precedents further. They sufficiently and clearly show the practice of the Government of the United States with foreign nations or with claimants under treaties.

Aside from considerations of international character, it will be found upon examination of the precedents where Congress has passed acts for the relief of citizens of the United States, that in almost every case where the Government has withheld a sum of money which had been decided by competent authority to be due, or where the amount due was ascertained, fixed, and definite, Congress has directed the payment of interest together with the principal. (See "Law of Claims against Governments," being Report No. 134, 2d sess. 43d Congress.)

Nor has the recovery of interest as against foreign powers depended upon arbitration or joint commissions for recognition of the principle. Such claims for interest have been directly and successfully urged by the diplomatic representatives of the United States as a *matter of right* under principles of established international law.

The cases are innumerable where claims have been enforced in behalf of citizens of the United States against foreign Governments, with interest, and where, too, the damages were unliquidated, and rested even in *tort*. These cases may be found stated at length in Senate Ex. Doc. No. 18, second session Thirty-fifth Congress. But confining ourselves rigidly to precedents established by the Government of the United States, like case now presented, we find numerous instances.

The United States presented a claim against Portugal for loss by seizure in 1829, at Lisbon, of *specie* belonging to James Hall and J. Shepherd, citizens of the former Government, which was being shipped contrary to law. Restitution was subsequently made, $17,741.98 being allowed to the United States, of which sum $7,652.98 was expressly allowed *as interest*.

Claims asserted against Mexico in behalf of Jonas P. Levy for illegal duties exacted in 1843–'46, where $3,675 was recovered *including interest*. Case of William B. Hatch for overcharge of tonnage duties, where $277.65 was recovered, *with interest*.

The case against Brazil of William W. Harper, administrator, for fine paid custom-house at Maranham, *interest*, &c., where $1,130.40 was recovered. The case of John Devereux, for anchorage and tonnage dues unlawfully imposed on the bark Globe, where, including interest, $196.99 was recovered.

The case of Foster & Elliott, for fine exacted on ship Louisiana, at Rio, in January, 1835, where $577.94 was recovered, *including interest*. The case of Francis A. Gray, for illegal exaction of fine at Rio in same year, where $1,453.94 was recovered, *including interest*. The case of Hyman Gratz, president of Pennsylvania Insurance Company, for *interest* (only) on customs duty illegally exacted and previously refunded by Brazilian Government, $506.65 was allowed and recovered.

The United States claimed certain indemnity from the Government of Brazil in the matter of the brig Caroline, which was paid. Subsequently, on review by this Government, the conclusion was reached that the money had been unjustly demanded and received, and in a letter of Secretary Fish to Señor de Barros, of the Brazilian legation, dated Department of State, June 26, 1874, he says:

"I now have the honor to inform you that the President, after a careful examination of the case, has come to the conclusion that the Government of Brazil is not justly responsible for the damages in this case. It is understood that the Government of His Majesty the Emperor of Brazil is of the same opinion respecting it. Under these circumstances the President regards it as the duty of the United States to repay to Brazil the amount thus received by their minister at Rio, with interest thereon at 6 per cent. per annum. * * * "

Here the sum of $96,405.73 was accordingly paid, covering the amount originally exacted, with 6 per cent. interest thereon, as being a just reparation for moneys wrongfully exacted from a foreign power. (See Foreign Relations United States, 2d sess. 43d Congress, No. 63, page 95.)

It will thus be seen that no principle is now urged that has not hitherto been repeatedly and successfully enforced by the United States in behalf of its own citizens against foreign Governments.

The Federal courts of the United States have repeatedly determined, where an illegal tax has been collected, that in a suit against the *collector*, the person so paying the tax is entitled to interest from the time of the illegal exaction. (Erskine *vs.* Van Arsdale, 15 Wall., 77; Howland *vs.* Maxwell, 3 Blatchf., 147; Harrison *vs.* Same, *ibid.*, 421.)

Reason furnishes no distinction in this regard between the collector who first receives it and the Secretary of the Treasury to whom it is ultimately paid. They are equally the representative of the Government. Besides, the latter stands in the attitude of an accessory *after the fact, and for this reason*, of itself, should be held accountable.

When two nations speak to each other they use the language of nat
course is regulated, *and their mutual agreements and obligations* are to
that code only which we usually denominate the public law of the w
law is not one thing at Rome, another at London, and a third at Was
same in all civilized states, everywhere speaking with the same voic
thority."

Again, in the same opinion, Mr. Webster used the following langu

"We are construing a treaty, a solemn compact between natio
between nations, this treaty, is to be construed and interpreted th
length and breadth, in its general provisions, and in all its detail
sentence, word, and syllable in it, *by the settled rules of the law of na*
pal code can touch it, no local municipal law affect it, no practice of
department come near it. Over all its terms, over all its doubts, over
if it have any, the law of nations 'sits arbitress.'"

The levying of tonnage taxes on the vessels of these companies bein
action of the money on such unlawful levies was wrongful; and we
taking of money excuses the necessity of a demand for the repaymen
lows, in accordance with the principles of well-adjudicated cases, in
ternational rule, that if the money was wrongfully taken by the Unit
companies, it is bound to allow and pay interest on the money from
wrongfully taken.

The general doctrine which prevails on the subject of interest w
cussed and correctly expounded in Reid *vs.* Rensselaer Glass Factory
J. Savage, after a full examination of the cases, asserts that interest i
a special agreement; 2. Upon an implied agreement; 3. When money
the will of the owner; 4. By way of punishment for an illegal conv
other's property; 5. Upon advances in cash.

It has been the invariable practice, at the circuits, for more than
tury, to allow interest in cases like the present. So well settled ha
in this respect that the question of interest on a debt which is withh
without the assent of the creditor, rarely passes into the reports un
portant question is connected with it.

These tonnage duties being paid under duress and without warran
immediately transferred to the Secretary of the Treasury, they cam
these officers unlawfully, the taking was tortious, and a conversion
mand for repayment was necessary to sustain trover or assumpsit for

Where the property came lawfully in the defendant's possession, t
mand and refusal to sustain trover or assumpsit for the value. (Spoo
307.)

plaintiff is wrongfully deprived of his money. As, in an action against a public officer to recover damages for a tort, it was held:

"The plaintiff has a vested right to the amount of the assessment. The interest thereon is but an incident—an outgrowth from that right. The defendant's wrongful act has prevented him from realizing his money. It was a willful, because an intentional wrong, and a plain violation of a legal duty which the defendant owed to the plaintiff. If entitled to sustain this action at all, the plaintiff should *obtain complete satisfaction.*" (Clark *vs.* Miller, 47 Barb., 43.)

The correct rule of damages is its value at the time of taking an interest. (N. Y. Guaranty and Indemnity Co. *vs.* Flynn, 65 Barb., 368.)

Having ascertained what plaintiff's damage was, the referee properly allowed interest on the amount thereof from the time plaintiff became entitled to payment of the same. Without the interest plaintiff would not have secured full indemnity. (Mailler *vs.* Express Propeller Line, 61 N. Y., 316.)

The same rule is affirmed in Wehle *vs.* Haviland *et al.*, 66 N. Y., 450; Prince *vs.* Connor, 69 N. Y., 608.

This is the rule as to illegal exactions by revenue officers. (Erskine *vs.* Van Arsdale, 15 Wall., 77.)

Interest is chargeable from the time the money was wrongfully obtained or wrongfully detained, and not from the time of demand. (Wood *vs.* Robbins, 11 Mass., 506; Atlantic Nat. Bank *vs.* Harris, 118 Mass., 147.)

The cases cited from Massachusetts reports are based upon the same principle, which was clearly laid down as the law by Judge Story, in the United States circuit court, in the case of Ricketson *et al. vs.* Wright *et al.*, 3 Sumner, 336.

In this case the proceeds of a cargo belonging to the plaintiffs had been taken under legal process by the defendants, the consignees, in Rio de Janeiro, for the debts of prior owners of the ship.

The court held the taking was unlawful, but that the tort had been waived by bringing assumpsit. The question arose as to the time from which interest should be computed, whether from the time of the actual receipt of the money by the defendants at Rio, or from the time when the same would have been received as cash by the plaintiffs in Boston, if remitted in the ordinary course of business.

The plaintiffs insisted that the defendants, having had the money and the use of it, should pay interest from the time of its receipt. The defendants held that the interest, being in the nature of damages for the detention of the money, must date from the time when the defendants were bound to have it paid over.

The court held:

"The question is not without difficulty; but from the best consideration which I have been able to give it, my opinion is that interest ought to run from the receipt of the money by the defendants. If this were the case of an ordinary transaction and sale by consignees, who had sold property on account of consignors in violation of their orders, and held the proceeds for and on account of their principals, I should have no doubt that the plaintiffs, by bringing assumpsit for the proceeds, had affirmed the sale and proceedings throughout, and that the acts of the consignees being done by them throughout for and on account of the principals, must be all deemed to be adopted by the principals. But here the case is entirely otherwise. The defendants, so far from attaching or selling the property on account of the plaintiffs, and retaining the proceeds for their account, professedly acted throughout adversely to the plaintiffs, and on their own sole account. They insisted upon the right to hold the proceeds for themselves, as their own property, rightfully acquired; and although the plaintiffs, by bringing assumpsit for the proceeds, have waived the tort, it is impossible to say that they have adopted or ratified the acts of the defendants in retaining the proceeds for their (the defendants') own use and account. That would be to defeat their own right to recover in this very suit upon the merits. I think, therefore, that the defendants must still be deemed to have received and held the proceeds adversely to the plaintiffs, and, of course, to have had the possession of the funds, and to have used them for their own benefit. And, if so, they ought to pay interest for the same from the time when the funds were appropriated to their own use. In the common case of an illegal conversion of property by a defendant acting adversely and for his own interest in the sale of the property, the plaintiff does not, by waiving the tort and bringing assumpsit for the proceeds, do more than affirm the sale.

"The defendant is still liable for interest upon the amount from the time of receiving the proceeds of the sale; for he has received and detained them, not for the plaintiff, but for himself. And the presumption of law is, that the defendant in such a case has derived a benefit from the use of the funds equivalent to the interest; or what is equally potent, that the *plaintiff has lost the use of* his money from the time of the receipt thereof *by the defendant by the unlawful* and wrongful detention of the defendant. In the

there might be some laches attributable to these companies in not havin
these respective payments at the time and failing to demand an imme
money. But the United States, in disregard of its obligations, at fi
acted these duties, even as against Belgium, whose treaty on its face c
tion, and a refund to subjects of that Government was made in Febru
restitution being promptly made, and the amount being small, no cla
set forth. The case is much stronger with the Hanseatic Republics.
gave them no notice that by virtue of a treaty with Belgium (made 3
to their own), to which those republics were utter strangers, certain
had accrued to them which they could not anticipate, and it would b
well as unjust, to hold these republics to a knowledge of treaty privile
which it seems our own officials, specially charged with their adminis
overlooked and disregarded.

The diplomatic correspondence herein referred to, however, shows
made upon this Government for the refund of these moneys as soo
of the Hanseatic Republics became advised concerning the character c
cession made to them, viz, as early as 1872, and the official corresp
a consistent and uninterrupted claim to these moneys from the begin

The concluding consideration is at what rate the interest should be
With this the committee find little or no difficulty, since this Go
earliest years, has established the rate at 6 per cent., by decisions of
and by the multitude of cases we have examined, as the measure of
moneys unjustly held. Nor would this rate of interest work any
Government. These moneys were withheld from the year 1862 to t
the United States was a borrower of money at a rate largely in ex
During all this period the United States Government, unhappily,
among nations, but an anxious borrower, and it is plain that, as a b
of the Government was relieved to the extent of these moneys wron
withheld.

These moneys, from the beginning being those of another, should
immediately. Had they been thus restored and by the owners loa
States for a period covering most of the years they were retained, a r
interest would have accrued on any of the then current public loans t
terest at 6 per cent to be now allowed. We think, therefore, that t
tioned by a long current of judicial decisions and by acts of Congre
hered to in the present instance.

From the facts in the case, it appears:

1st. The United States, by treaty of 1827 with the Hanseatic Repu
to grant any particular favor to any other nation in respect of comme

more (although claim was made for interest); the United States having the uninterrupted use of such moneys for a period varying from three to fifteen years.

6th. That such refund was taken under protest, with a distinct declaration of part of claimants that claims for interest would be urged before Congress. Under these circumstances your committee are clearly of the opinion that a just reparation for the injury committed alone by the United States cannot be made by returning to the innocent party simply the money wrongfully exacted without an allowance for its use. The United States would, otherwise, derive a large pecuniary benefit from its wrongful act, and an innocent friendly power would sustain a corresponding pecuniary loss. For the United States to claim such a benefit would violate one of the fundamental axioms of the common law as well as a cardinal principle of morality, that no one should be permitted to derive an advantage from his own wrong to the detriment of another.

It should not be forgotten that during the entire period of these exactions all steamvessels of the United States entering the ports of Bremen and Hamburg were wholly exempt from the payment of like duties, and that not a dollar has been levied upon American tonnage to excuse or justify the exactions of the United States, and that perfect reciprocity could have existed *only* on exemption by the United States.

The obligations of the United States, construed as they must be in this instance by rules and precedents of an international character, are not and cannot be properly discharged without the payment of interest on these claims. This Government must and should uncomplainingly submit to the administration of such rules of international law as it has aided to establish for the determination of rights between itself and other powers. It could not now with propriety and for the purpose of a temporary and pecuniary gain ask other nations to change a rule to which it has long and consistently adhered and by which its citizens have hitherto been repeatedly benefited. As we have said before, the question is one of the highest national importance, as it involves a consideration of national honor, and its determination will sanction a principle to which the United States will henceforth stand committed in the enforcement of its own demands against foreign powers.

The time will surely come when American commerce will again, as in the past, maintain its supremecy upon the seas and when kindred questions affecting commercial concessions to us under treaties will receive the interpretation which a liberal and enlightened judgment has hitherto invoked for the determination of questions arising between friendly powers.

It would be unjust, unwise, and unstatesmanlike to deviate in the present instance from uniform precedents, and such course would most likely be found at no remote day to have been a humiliating and unprofitable evasion of just obligations, the fulfillment of which has been already too long delayed.

Your committee adopt the said report made to the Forty-sixth Congress, so far as herein set forth, and recommend the passage of said bill (H. R. 1062) as amended and attached to this report.

ONGRESS, Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 662.

# VIVORS OF THE EXPLORING STEAMER JEANNETTE.

ARY 23, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

JCHANAN, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill H. R. 1659.]

*mmittee on Claims, to whom was referred the bill (H. R. 1659) for relief of the survivors of the Jeannette expedition, submit the follow- report:*

facts attending the loss of the steamer Jeannette and the dis- which befell her crew, are well known and need not be recapitu- ere. The general purposes of the bill before us, affording relief e who lost their personal effects by the wreck, and providing a y of twelve months' pay to the kindred of those who perished, line with the past policy of Congress, and shown in numerous a similar character heretofore passed.

some of the details of the bill we are, however, unable to agree. 3 gives the extra pay in a certain contingency to the "surviving or parents." We think the policy of granting these gratuities not be broader than is observed in the case of pensions, and end that after the word "surviving," the word "dependent" be inserted.

he same reason we recommend striking out the words "or if e no widow, child, or parent living, to the brothers and sisters of eased," in lines 7 and 8, section 2, of the printed bill.

e letters of the Commissioner of Pensions and Secretary of the hereto appended it appears that the surviving kindred of some, who perished in that ill-fated expedition, are entitled to pen- seems to your committee but fair and just that in cases where are allowed the gratuity granted by this bill should thereupon into account, else, in some cases, double provision would be

erefore recommend adding to the bill these words: "Provided, that, in any case where, heretofore, a pension has been granted, hereafter in fact be granted, to any such widow, child, or de- parent by reason of the death of any of the persons named in nd section of this act, in the payment of such pension account taken of any sum paid under this act, and, to the extent of its said sum shall be in lieu and stead of such pension, and no "

inclosing a copy of House bill 1659, being "a bill for the relief
the exploring steamer Jeannette, and the widows and children of
in the retreat from that vessel in the Arctic seas," and inquiring
pension laws as they now exist, the persons referred to have a
proof being made, to be placed upon the pension-roll; also wheth
tioned in the first section are entitled to pensions under said lav
curred in the service.

In reply to the first question stated in your letter, I beg leave
tention to the following correspondence upon the subject, which

DEPARTMENT OF THE INTERIOR, PEN
*Washington, D.*

The Hon. L. Q. C. LAMAR,
*Secretary of the Interior:*

SIR: I have the honor to state, in reference to the claim for p
Mrs. Emma J. De Long, widow of Lieutenant Commander De Lo
perished while in command of the Arctic exploring steamer Jean
claims filed by or in behalf of those who accompanied the exped
vessel was engaged, that I hold that the officers and crew were i
of the United States.

In the case of Mrs. De Long I accept the order of the honorab
Navy, dated May 8, 1879 (as per his report of February 13, 1885), d
De Long "to special duty at New York, and then to command t
steamer Jeannette," as changing his status from "absent with lea
duty, and that his death was due to causes arising while in the line
entitling the widow to a pension.

I am, sir, very respectfully,

JOHN

The foregoing letter bears the following indorsement:

DEPARTMENT OF T
*Washington, L*

Respectfully forwarded to the Secretary of the Navy, with the i
conclusions of the Commissioner correspond with the views of the h

L. Q.

To the foregoing letter the following reply was received:

NAVY DEPA

In reply to your inquiry indorsed upon the letter of the Commissioner, which letter is herewith returned, I have the honor to state that the conclusions therein expressed correspond with the views of this Department on the points to which they relate.

Very respectfully,

W. C. WHITNEY,
*Secretary of the Navy.*

To Hon. L. Q. C. LAMAR,
*Secretary of the Interior.*

I would also invite your attention to my ruling upon the subject referred to, which will be found at the bottom of page 319 of the new digest of pension laws, &c., a copy of which I had the honor to send you a few days ago.

In reply to your second question, referring to those persons who are named in the first section of the bill, I would state that, under the law, no person can receive a pension and the pay of his rank in the military or naval service of the United States covering the same period of time. Therefore the persons referred to in said section who are still in the service of the United States cannot receive a pension under the general law; but when their naval service and their pay in said service shall have terminated by reason of their honorable discharge therefrom, upon proper proof being made, they will be entitled to pension from the date their application therefor may be filed in this office at a rate proportionate to the degree of disability which, upon proper examination, may be found to exist.

Very respectfully,

JOHN C. BLACK,
*Commissioner.*

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[Senate Mis. Doc. No. 32, Forty-eighth Congress, first session.]

*Letter from the Secretary of the Navy, transmitting recommendation and draft of a bill for the relief of the survivors of the exploring steamer Jeannette and the widows and orphans of those who perished in the retreat from the wreck of that vessel.*

NAVY DEPARTMENT,
*Washington, January 9, 1884.*

SIR: I have the honor to transmit herewith a draft of a bill for the relief of the survivors of the exploring steamer Jeannette, and the widows and children of those who perished in the retreat from the wreck of that vessel in the Arctic seas, and to request that the same may be presented to the Senate.

In recommending this bill, or some similar measure of relief for the survivors of the officers and enlisted men of the Jeannette, and for the widows and children of those who succumbed to the privations and fatigues to which they were subjected in consequence of the loss of that vessel, I desire to state that the provision for the relief of the survivors is not intended as a gratuity, but as a reimbursement of the losses sustained by them, and is in accordance with similar action in the cases of the Polaris, the Huron, and other vessels wrecked or lost at sea. Many, if not all, the personal effects of both officers and enlisted men were either lost by the wreck of the Jeannette or were necessarily abandoned by them when compelled to undertake the long and perilous journey by which alone they could hope to save their lives.

In this connection I desire also to call the attention of Congress to the sixth finding of the court of inquiry appointed to investigate the circumstances attending the loss of the Jeannette, concerning the general conduct and merits of each and all the officers and men of the expedition, which is as follows:

"There is conclusive evidence that aside from trivial difficulties, such as occur on shipboard even under the most favorable circumstances, and which had no influence in bringing about the disasters of the expedition and no pernicious effect upon its general conduct, every officer and man so conducted himself that the court finds no occasion to impute censure to any member of the party.

"In view, then, of the long and dreary monotony of the cruise, the labors and privations encountered, the disappointment consequent upon a want of important results, and the uncertainty of their fate (and apart from a natural desire to tread lightly on the graves of the dead), the general conduct of the *personnel* of the expedition seems to have been a marvel of cheerfulness, good-fellowship, and mutual forbearance, while the constancy and endurance with which they met the hardships and dangers that beset them entitle them to great praise.

"Beside the mention already made, special commendation is due to Lieutenant-Commander De Long for the high qualities displayed by him in the conduct of the expedition; to Chief Engineer Melville, for his zeal, energy, and professional aptitude,

which elicited high encomiums from his commander, and for his subsequent efforts on the Lena Delta; and to Seamen Nindemann and Sweetman, for services which induced their commander to recommend them for medals of honor."

In view of the foregoing commendations, I have the honor to recommend such further action in recognition of the conduct and services of the officers and enlisted men of the expedition as to Congress may seem appropriate.

I have the honor to be, sir, very respectfully,

WM. E. CHANDLER,
*Secretary of the Navy.*

Hon. GEORGE F. EDMUNDS,
*President pro tempore of the Senate.*

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[Senate Report No. 143, Forty-eighth Congress, first session.]

*The Committee on Naval Affairs, to which was referred the bill (S. 1039) for the relief of the survivors of the exploring steamer Jeannette and the widows and children of those who perished in the retreat from the wreck of that vessel in the Arctic seas, beg leave to report as follows:*

This bill is not strictly a gratuity, but a measure of relief in the way of reimbursement for losses sustained by the unfortunate officers and men who composed the Jeannette expedition. The case is well stated by the Secretary of the Navy in his communication to the Senate under date of January 9, 1884, as follows:

"In recommending this bill, or some similar measure of relief for the survivors of the officers and enlisted men of the Jeannette, and for the widows and children of those who succumbed to the privations and fatigues to which they were subjected in consequence of the loss of that vessel, I desire to state that the provision for the relief of the survivors is not intended as a gratuity, but as a reimbursement of the losses sustained by them, and is in accordance with similar action in the cases of the Polaris, the Huron, and other vessels wrecked or lost at sea. Many, if not all, the personal effects of both officers and enlisted men were either lost by the wreck of the Jeannette or were necessarily abandoned by them when compelled to undertake the long and perilous journey by which alone they could hope to save their lives.

"In this connection I desire also to call the attention of Congress to the sixth finding of the court of inquiry appointed to investigate the circumstances attending the loss of the Jeannette, concerning the general conduct and merits of each and all the officers and men of the expedition, which is as follows:

"'There is conclusive evidence that aside from trivial difficulties, such as occur on shipboard even under the most favorable circumstances, and which had no influence in bringing about the disasters of the expedition, and no pernicious effect upon its general conduct, every officer and man so conducted himself that the court finds no occasion to impute censure to any member of the party.

"'In view, then, of the long and dreary monotony of the cruise, the labors and privations encountered, the disappointment consequent upon a want of important results, and the uncertainty of their fate (and apart from a natural desire to tread lightly on the graves of the dead), the general conduct of the *personnel* of the expedition seems to have been a marvel of cheerfulness, good-fellowship, and mutual forbearance, while the constancy and endurance with which they met the hardships and dangers that beset them entitle them to great praise.

"'Besides the mention already made, special commendation is due to Lieutenant-Commander De Long for the high qualities displayed by him in the conduct of the expedition; to Chief Engineer Melville, for his zeal, energy, and professional aptitude, which elicited high encomiums from his commander, and for his subsequent efforts on the Lena Delta; and to Seamen Nindemann and Sweetman, for services which induced their commander to recommend them for medals of honor.'"

In view of the foregoing, and in recognition of the heroism and extraordinary services of the officers and enlisted men of the expedition, the committee recommend that the bill do pass.

---

[House Report No. 2216, Forty-eighth Congress, second session.]

The Committee on Naval Affairs, to whom was referred the bill (S. 1039) for the relief of the survivors of the exploring steamer Jeannette and the widows and children of those who perished in the retreat from the wreck of that vessel in the Arctic seas,

and which passed the Senate April 1, 1884, beg leave to report the same with amendments, as follows:

The Committee on Naval Affairs of the Senate, who reported this bill favorably prior to its passage in that body, made use of the language following in their report:

This bill is not strictly a gratuity, but a measure of relief in the way of reimbursement for losses sustained by the unfortunate officers and men who composed the Jeannette expedition. The case is well stated by the Secretary of the Navy in his communication to the Senate under date of January 9, 1884, as follows:

"In recommending this bill, or some similar measure of relief for the survivors of the officers and enlisted men of the Jeannette, and for the widows and children of those who succumbed to the privations and fatigues to which they were subjected in consequence of the loss of that vessel, I desire to state that the provision for the relief of the survivors is not intended as a gratuity, but as a reimbursement of the losses sustained by them, and is in accordance with similar action in the cases of the Polaris, the Huron, and other vessels wrecked or lost at sea. Many, if not all, the personal effects of both officers and enlisted men were either lost by the wreck of the Jeannette or were necessarily abandoned by them when compelled to undertake the long and perilous journey by which alone they could hope to save their lives.

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"'There is conclusive evidence that aside from trivial difficulties, such as occur on shipboard even under the most favorable circumstances, and which had no influence in bringing about the disasters of the expedition, and no pernicious effect upon its general conduct, every officer and man so conducted himself that the court finds no occasion to impute censure to any member of the party.

"'In view, then, of the long and dreary monotony of the cruise, the labors and privations encountered, the disappointment consequent upon a want of important results, and the uncertainty of their fate (and apart from a natural desire to tread lightly on the graves of the dead), the general conduct of the *personnel* of the expedition seems to have been a marvel of cheerfulness, good-fellowship, and mutual forbearance, while the constancy and endurance with which they met the hardships and dangers that beset them entitle them to great praise.

"'Beside the mention already made, special commendation is due to Lieutenant-Commander De Long for the high qualities displayed by him in the conduct of the expedition; to Chief Engineer Melville, for his zeal, energy, and professional aptitude, which elicited high encomiums from his commander, and for his subsequent efforts on the Lena Delta; and to Seamen Nindemann and Sweetman, for services which induced their commander to recommend them for medals of honor.'"

In view of the foregoing, and in recognition of the heroism and extraordinary services of the officers and enlisted men of the expedition, the committee recommend that the bill do pass.

Your committee concur in the above, but think that the amount allowed to Raymond L. Newcomb, John Cole, W. F. C. Nindemann, James A. Bartlett, Louis P. Noros, Herbert W. Leach, Henry Wilson, Frank E. Manson, Charles Tong-Sing, and John Lauterbach should be $600 to each of them, instead of, as stated in the bill, $600 to the first four and $300 to the remainder. The uniformity of risk, loss, suffering, and privation demands equal recompense.

The committee beg to present in connection with this report, and make it part of the same, a petition on the part of some of the survivors, signed by the most eminent citizens of New York and Brooklyn.

As an act of justice to these men, who have exhibited unwonted heroism and endurance, and to the dependent relatives of those who lost their lives, the committee recommend that the bill do pass.

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The undersigned, citizens of the United States, having observed with pleasure the action taken by Congress for the benefit and relief of the sufferers by the Jeannette Expedition, and the handsome tribute of respect that has been paid to the honored dead, do hereby petition and call the attention of the honorable members of the Congress of the United States to the case of W. F. C. Nindemann and Louis P. Noros, the two survivors of the unfortunate expedition, and the direct means through which the bodies of Lieutenant De Long and his comrades were recovered.

We feel that these two men, though only workers in a humble sphere of life, should receive some satisfactory reward for their faithful services that would compensate them for the hardships they have undergone while in the discharge of their duty.

With this object in view, we respectfully petition Congress to grant an ap tion that may be so applied to their benefit as to preserve them from want a the gratitude of a great people to those who have risked their lives in thei

THOS. L. JAMES.
JNO. B. DAVIDSON.
A. S. FUSSELL.
M. H. HENRY, M. D.
H. G. PEARSON.
J. GAYLER.
C. H. ANTES.
JOHN O. FLOWER.
WILLISTON B. LOCKWOOD.
CHAS. P. DALY.
FRANCIS A. STOUT.
ALGERNON S. SULLIVAN.
T. BAILEY MYERS.
C. C. CLARKE.
DAVID DUDLEY FIELD.
ELIHU ROOT.
TIMOTHY GRIFFITH.
JOHN A. SHEA.
SAM'L H. LYMAN.
GEO. W. HALL.
THOS. C. ACTON.
G. MONTAGUE.
W. H. ROBERTSON.
OSWALD OTTENDORFER.
FRANKLIN EDSON.
GEO. H. POTTS.
E. W. MORRIS.
C. J. DE BAUN.
J. R. CUMING.
WILLIAM DOWD, 44 Wall street.
P. J. WINSTON, Nassau street.
RICHARD A. MCCURDY.
STEPHEN A. WALKER.
HUGO S. DUSMAN.
JOHN ERDTDAHL.
GEO. M. CURTIS.
AARON CLAFLIN.
F. WIEBUSCH.
SIGISMUND KAUFMANN.
DAVID MCADAM.
CHARLES L. WRIGHT & CO., per Wm. A. Wright.
PARIS, ALLEN & CO.
FRED. A. SAUR, jr., New York and Wilmington Steamship Company.
F. ALEXANDRE & SONS, New York, Havana and Mexican Steamship Lines.
C. S. LANGDON, 115 Wall street.
KUNHARD & CO., 32 Beaver street.
JAMES L. BENEDICT.
CHARLES K. GRAHAM.
J. B. HOUSTON.
JESSE SELIGMAN, Sr.
JNO. P. TOWNSEND.
W. A. COLE.
FRED. PROBST & CO.
H. VICTOR.
GUSTAV H. SCHWAB.
J. H. HERRICK (President New duce Exchange).
H. A. ARMOUR.
FRANKLIN WOODRUFF.
THOS. E PORTER.
HENRY L. WARDWELL.
THOS. A. MCINTYRE.
MASON C. WELD.
PERKINS & CO.
F. H. PARKER.
GUSTAV SCHWAB.
J. W. BRUNN.
HAGERMEYER BRUNN.
WM. H. WICKHAM, 31 Broad st
W. R. GRACE & CO., 1421 Pea
J. BERTSCHMANN, 69 Beaver st
F. C. HAVEMEYER, 117 Wall st
C. Y. PRATT, 1483 Pacific stree
N. H. CLEMENT, court-house, I
A. MCCUE, Brooklyn.
LEWIS R. STEGMAN, Brooklyn.
W. H. FLEEMAN, Brooklyn.
ROBERT M. WHITING, Brooklyn
RODNEY C. WARD, Brooklyn.
GEO. W. WHITE, Brooklyn.
RICHARD T. STORRS, Brooklyn
A. A. LOW & BROTHERS, 31 Slip.
C. H. HUTTMANN, per Chas. Pf 81 Maiden Lane.
A. W. EVARTS, 52 Wall street, City.
HENRY C. ELLIS, 32 Broadway, City.
WM. M. EVARTS, 52 Wall street.
JAMES TANNER, collector of ta
S. T. MADDOX, Brooklyn.
Q. A. GILLMORE, colonel Engi Maj. Gen., U. S. A.

CONGRESS, Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 663.

# FICERS AND CREWS OF UNITED STATES STEAMER JEANNETTE.

FEBRUARY 23, 1886.—Laid on the table and ordered to be printed.

BUCHANAN, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill H. R. 2112.]

*ommittee on Claims, to whom was referred the bill (H. R. 2112) for relief of survivors of the Jeannette expedition, submit the following rt:*

ar committee would respectfully report that House bill 1659, here- reported, with amendments, by this committee, affords all the re- is bill seeks to give, and for that reason only report the bill back the recommendation that the committee be discharged from its fur- onsideration.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 664.

# WILLIAM TALBERT.

FEBRUARY 23, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SHAW, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill H. R. 3475.]

*The Committee on Claims, to whom was referred the claim of William Talbert, having had the same under consideration, beg leave to submit the following report:*

It appears from a letter of the Chief of the Bureau of Yards and Docks, addressed to the Secretary of the Navy, and filed in this case, that some time in the year 1862 William Talbert, either by letter or verbally, asked permission to have tried an appliance to heave up vessels on the ways at the navy-yard at Washington, D. C. The trial of this appliance was authorized by the said Bureau, the expense of making the same to be charged to "yard repairs."

The appliance was to enable the yard to haul up a vessel of greater length of a given draught than could otherwise be done at said yard without the use of said appliance, and by the less convenient means which had been in use before its adoption. At the time this appliance was placed upon trial, and which served its purpose, said Talbert was in the employ of the Government, and the device was not patented. Subsequently, in 1864, Mr. Talbert obtained a patent for his invention, but has not received any compensation from the Government for its use. The bill proposes to refer Mr. Talbert's claim against the Government for the use of said appliance to the Court of Claims, said court to be authorized and directed to take jurisdiction thereof and to award judgment therein according to its value to the Government during the extence of said patent.

That the Government of the United States, when it grants letters patent for a new invention or discovery in the arts, confers upon the patentee an exclusive property in the patented invention, which cannot be appropriated by the Government itself, there is no doubt. The Supreme Court of the United States, in the case of James *vs.* Campbell (U. S. Rep., 104), says the Constitution gives to Congress power "to promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries," which could not be effected if the Government had a reserved right to publish such writings, or to use such inventions without the consent of the owner. The Government of the United States as well as the citizen is subject to the Constitution, and

when it grants a patent the grantee is entitled to it as a matter of right, and does not receive it, as was originally supposed to be the case in England, as a "mark of grace and favor." The mode of obtaining compensation from the United States for the use of an invention has never been specifically provided for by statute. In the judgment of your committee the proper forum for claims of this character is the Court of Claims, and they therefore recommend that this bill do pass.

O

TH CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
1st Session. { { No. 665.

# ALEXANDER GOBLE.

BRUARY 23, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

:. LYMAN, from the Committee on War Claims, submitted the following

## REPORT

[To accompany bill H. R. 2176.]

*e Committee on War Claims, to whom was referred the bill (H. R. 2176) for the relief of Alexander Goble, have had the same under consideration, and beg leave to report as follows:*

In the month of August, 1861, the claimant enlisted as a private dier in the service of the United States in Company F, Sixty-third nnsylvania Volunteer Infantry, and was afterwards transferred to mpany H, of the One hundred and fifth Pennsylvania Volunteer fantry. He served therein faithfully until the month of August, 1863, en, under the laws of Congress and the regulations of the War Dertment, he re-enlisted as a veteran for three years or during the war. r such veteran re-enlistment he was entitled to a bounty of $400, to paid in installments, as follows: $60 in advance; $50 after each two, , twelve, eighteen, twenty-four, and thirty months' service, and the ance at the expiration of the term of service.

Veterans who were honorably mustered out of service before the exation of their term of service, because their services were no longer uired, or by reason of wounds received in the line of duty, were ened to full amount of veteran bounty remaining unpaid at time of ster-out. After this claimant's re-enlistment he was severely wounded the battle of Hatcher's Run, in Virginia, and was sent to Fairfax ninary Hospital, where he remained until he was discharged, about ie 1, 1865. While at this hospital he was discharged by special order. supposed he was being discharged in such a manner as to entitle ı to the balance of his veteran bounty still unpaid. It was so repreted to him by the officers issuing the discharge, and he had been ured by President Johnson that he should be so discharged. It will iwer no good purpose to encumber this report with a detailed statent of the evidence on that point. However, after the discharge, the bursing officers refused to pay him the balance of unpaid bounty, ause, as they said, he "had been discharged by way of favor."

'he records of the War Department show that he had then been paid 0 of his veteran bounty, leaving a balance of $190 due him. Less than weeks after his discharge under these circumstances his regiment ; mustered out of service because their services were no longer led.

our *committee think* that, under these facts, he having been misled

by the officials of the Government into accepting the discharge he did, he ought to be paid the balance of his bounty.

The bill claims interest. The settled policy of the Government is against paying interest on such claims.

The committee therefore recommends that the bill be amended by striking out all that portion of the same between the words "with," at the end of the seventh line, and "sixty-five" in the ninth line, both inclusive, and that so amended it do pass.

C

: CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
rt Session. } { No. 666.

# WILLIAM A. EASTEN.

FEBRUARY 23, 1886.—Laid on the table and ordered to be printed.

LYMAN, from the Committee on War Claims, submitted the following

## REPORT:

[To accompany bill H. R. 3436.]

*Committee on War Claims, to whom was referred the bill (H. R. 3436) r the relief of W. A. Easten, have had the same under consideration, d beg leave to submit the following report:*

he bill asks an appropriation of $3,000, while the claim as origin- made to the Quartermaster's Department several years ago was for 53.50, which fact alone throws a suspicion around the claim. The m has been before the Quartermaster's Department, fully investi- d, and rejected. We here quote the material allegations of the pe- n of claimant made under oath several years ago:

* * * * * * *

ring the war of the rebellion I was engaged in milling and farming in a small I was also the keeper of the Green River lock and dam at Spottsville, Hen- n County, Kentucky. My brother, R. S. Easten, owned jointly and ran the grist aw mill, in the edge of Spottsville, near the locks. * * * In October, 1861, 'hirty-first Indiana Infantry, Colonel Craft, and a Kentucky regiment United s Volunteers came to Spottsville and remained some time. * * * While there oops took from our mill a good deal of lumber, *but I have now no idea how much ook.* * * * I reckon, maybe, they took altogether 1,500 feet of 1-inch lum- vorth about $1 per hundred feet. * * * This lumber was left there, but I account for it. Colonel Hawkins's men also used some rails from around an field of mine, in the edge of town; don't know how many, but reckon about or 2,000 rails, worth about $1 per hundred. Colonel Hawkins also used some r for bedding; don't know how much; I suppose sixty or seventy shocks, worth nts per shock. * * * Then, in the fall of 1861, the Forty-third Indiana In- y, commanded by Colonel Steele, came to Spottsville and staid all winter; and there they took from our mill some lumber. I have now no idea how much. used it for flooring their tents; this lumber was left on the ground when they away, but I can't account for it. * * * Some time during the summer of Captain Stillwell, of the Sixty-fifth Indiana Infantry, with about five or six com- s of Federal soldiers, came to Spottsville and remained until fall, and while there used our mill for quarters for about thirty days. They also used some of the er to strengthen and fortify the mill; don't know how much. * * * This er was all left. * * * Then, in the fall of 1863, a detachment of the Ninety- Indiana came and remained all winter, and while there took some lumber from nill; don't know how much. * * * This was left on the ground when they their departure, and I don't know what became of it. * * * I cannot now an accurate estimate of what any of these commands took. * * * My said er and I owned the mill and all jointly. * * * Some of the lumber referred as used for making breastworks. I was a strong Union man and friend of the rnment, and so expressed myself during the entire war; always did what I could Union soldiers and did not render any voluntary asssistance to the rebels. I staid me all the time and had no son old enough for the service. My said brother was *ithern sympathizer,* but staid at home all the time and didn't do anything.

application he procured the opinion of the Judge-Advoca
law officer of the War Department. That officer, amon
says of the claim:

On September 6, 18-3, it was considered by the Quartermaster-Ge
lowed, he being unable to certify, as required by the act of Jul
stores were actually seized or taken and used by the Army. Havi
Congress constituted the judge of the sufficiency of the evidence,
this point was final.

Upon the other part of the claim, for the use of his n
for the troops, the Judge-Advocate says:

This is a claim for the use and occupation of real property by th
*ing out of contract* during the rebellion, such claims are not with
and provisions of section 3 of the act of July 4, 1864, and are exclu
diction of the Court of Claims by section 1 of the same act.

The application for a rehearing was therefore disallow
The following is the opinion of the Quartermaster-Ge
hearing:

A claim in favor of W. A. Easten, of Henderson County, Kentucky
&c., stated at $1,053.50, was considered in this office September 6,
lowed, the Quartermaster-General being unable to certify, as requ
July 4, 1864, that he was convinced that the items of quarterma
actually received or taken for the use of, and used by, the United S
rent claims cannot be considered under the provisions of the aforesai
that the lumber for which charge is made was left on the premise
marched off. Also, that some fodder was used for bedding and some
in what quantities could not be ascertained, and therefore no accou

In these conclusions of the Quartermaster's Departn
mittee concur, and recommend that the bill lie on the ta

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 667.

# ELIAS B. MOORE.

FEBRUARY 23, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SMALLS, from the Committee on War Claims, submitted the following

## REPORT:

[To accompany bill H. R. 107.]

*The Committee on War Claims, to whom was referred the bill (H. R. 107) for the relief of Elias B. Moore, having considered the same and accompanying papers, submit the following report:*

The committee find the facts to be as stated in House Report No. 1249, Forty-eighth Congress, first session, which report is hereto annexed and made a part of this report, and is as follows:

It appears by the evidence accompanying the bill that Elias B. Moore was postmaster at Fayetteville, Ark., in the year 1862, and that some time during the month of February of that year some 2,500 United States troops came into Fayetteville, broke into the post-office, took possession of and carried off all the United States stamps and envelopes, broke up the boxes in the office, and scattered the letters and other papers belonging to the office; that said Moore was absent and sick at the time, the office being in charge of his deputy, W. W. Moore; that a large number of postage-stamps and envelopes were destroyed; that the sureties on the bond of Elias B. Moore paid the sum of $335.96 to the Post-Office Department at Washington, and that Moore's account stands closed upon the books of the Department. The claimant asks compensation for the postage-stamps taken possession of by the United States Army in 1862, the value of which has been paid to the Government.

The committee think the evidence clearly establishes his right to be reimbursed for the amount paid by him and his sureties into the United States Treasury. They therefore report back the bill, and recommend that it do pass.

The committee therefore adopt said House report as the report of this committee, and report the accompanying bill for his relief, with the recommendation that it do pass.

O

9TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 668.

# DR. W. S. HOSACK.

EBRUARY 23, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

r. SMALLS, from the Committee on War Claims, submitted the following

## REPORT:

[To accompany bill H. R. 2175.]

*he Committee on War Claims, to whom was referred the bill (H. R. 2175) for the relief of Dr. W. S. Hosack, having considered the same and accompanying papers, submit the following report:*

The claimant in this case, a citizen of Oakland, Armstrong County, ennsylvania, says that he enlisted in Company G of the Seventy-ghth Regiment of Pennsylvania Volunteer Infantry, October 12, 1861, a private, and that he served with said regiment from that time until ovember 4, 1864, at which time he was discharged from the service by ason of the expiration of his term of service.

He further says that at the time he enlisted he was a practicing phy-cian, and as such he did duty during all of said term of service by and ith the consent of the officers of his company and regiment.

It appears from the affidavits filed in this case that considerable dis-tisfaction existed in said regiment between the colonel and the medi-l officers of the regiment, caused, as is stated, by the governor of the ate appointing medical officers for the regiment obnoxious to him, and at this feeling continued until claimant was mustered out.

The affidavits further state that the colonel made it so disagreeable r the regularly appointed surgeons that they could not and did not ay any great length of time with the regiment.

It is clearly proven by the testimony that claimant voluntarily and a matter of choice accepted the assignment to duty as a physician hospitals in preference to the hardships and exposure incident to the e of a private soldier. He at no time objected to the performance of e duties performed by him and at no time during the service sought pointment as surgeon.

He now applies to Congress for relief. It is quite evident to your mmittee that claimant volunteered as a private, and whatever services performed as a physician were purely voluntary.

He was paid and accepted full compensation for his services as a ivate soldier, and presents no equitable consideration for any addi-nal allowance.

Your committee, therefore, report adversely on said claim, and rec-mend that the bill do lie upon the table.

H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
1st Session. } { No. 669.

# STEAMSHIP OZAMA.

BRUARY 23, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

. MCMILLIN, from the Select Committee on American Ship-Building and Ship-Owning Interests, submitted the following

## REPORT:

[To accompany bill H. R. 5219.]

The Select Committee on American Ship-Building and Ship-Owning terests, to whom was referred the bill (H. R. 5219) to provide for an nerican register for the steamship Ozama, of New York City, have nsidered the same and report—

That the Ozama was formerly the British steamer Craigallion. The igallion was totally wrecked at Watling Island, Bahamas, West In-s, on the 21st of April, 1885, and abandoned by her British owners a total wreck. The evidence shows that her British register was ed and her certificate canceled at Glasgow June 3, 1885. In July l August following she was raised by the Baker Wrecking Company, Norfolk, Va., a company chartered under the laws of Virginia, and red to Baltimore, Md. She was there purchased by the present ner, William P. Clyde, of New York, from the Baker Wrecking Com-ny, towed to Wilmington, Del., and substantially rebuilt there, at a t to Mr. Clyde of about $30,000.

The wreck not having occurred on American shores, Mr. Clyde is un-le to obtain an American register save by special act of Congress, l hence the necessity for the present bill being passed.

Your committee referred the bill to the Secretary of the Treasury for h suggestions as he saw proper to make, and the Secretary replied t—

e case comes within the spirit, although not the letter, of the act of July 23, 1866, 3. Stats. 14, page 212), authorizing the Secretary of the Treasury to issue a register rollment for any vessel built in a foreign country whenever such vessel shall be ked in the United States and shall be purchased and repaired by a citizen of the ed States, if it shall be proved to the satisfaction of the Secretary of the Treasury the repairs put upon such vessel are equal to three-fourths of the cost of the l so repaired.

e Secretary says the conditions of the statute with regard to repairs been complied with, and recommends the passage of the bill.

e bill simply gives an American citizen the right to fly his country's over his vessel, which has been substantially built in the United es with American capital and American labor.

ur committee recommend the passage of the bill.

e letter of the Secretary of the Treasury is appended for the infor-ion of the House.

D.

Hon. POINDEXTER DUNN,
*Chairman of Select Committee on American Ship-Building*
*Ship-Owning Interests, House of Repre*

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CLYDE'S COASTWISE AND WEST INDIA S
*New York,*

SIR: The British steamer Craigallion was wrecked and abando off our coast on the Bahamas, and was recovered by American wre entirely rebuilt in this country at a cost reaching her full present in detail in the following petition which will be presented both House of Representatives:

*To the Senate and House of Representatives of the United States in Co*

The undersigned, William P. Clyde, of the city of New York, S as owner and repairer of the foreign-built steamer, Craigallion, t the Ozama, of New York, aforesaid, hereby makes application th changed, that she may hereafter be called the Ozama, and that she as a vessel of the United States by the collector of said port.

Upon this applicant and petitioner furnishing proof, through t port of New York, that he is a citizen of the United States; that is of foreign build, a British vessel; that she was found derelict an ling's Island of the Bahamas, as appears from the following extra register of shipping at Glasgow, where Craigallion was owned: Ves at Watling's Island, Bahamas, on the 21st April, 1885. Register c canceled 3d June, 1885. (Signed) James Whyte, assistant regist wreck was real and free from all manner of collusion; that she w cued from her stranded condition, and saved as a disabled vessel b and wreckers, from Norfolk, Va., entitled the Baker Salvage Co which company is American, and was duly incorporated by th State of Virginia; that title to her by purchase was acquired by petitioner, and that he is the owner thereof; that the cost of su amounted to the sum of about $15,000; that said steamship was as a wreck; that the cost of repairing her since said purchase at t ton, Del., has already amounted to $18,000, and will amount, befo to about $30,000, making an outlay of between $45,000 and $5 salvors and mechanics, and being the full present value of the ves

This vessel or wreck having been totally abandoned, and havin the official register and her certificate of registration canceled i consequence of her having been so wrecked, and having been saved

viding for an American register for the foreign steamship Ozama, owned by W. P. Clyde, of New York, and to request such suggestions as the Department may deem proper touching the merits of the bill and the propriety of its passage.

It appears from a report received from the collector of customs at Baltimore, Md., that the facts in the case as represented to him show that the Craigallion, which is understood to be the same vessel as the Ozama, was wrecked on Watling's Island, and raised by the Baker Wrecking Company, of Norfolk, Va., by which company she was taken to Nassau and thence to Baltimore in tow.

Had she been wrecked in waters of the United States, the case, under the circumstances stated by the applicants, would be covered by the provisions of section 4136, Revised Statutes, on her being purchased and repaired as therein mentioned. It is similar in principle, so far as this Department has been advised, to that of the vessel Caroline Miller, reported on in the Department's letter to your committee dated the 2d ultimo.

For your further information, I inclose herewith copies of letters relating to the Craigallion from the collector of customs at Baltimore, dated, respectively, November 17, December 4, December 26, 1885, and January 2, 1886; of a transcript of the register; of letters from the Baltimore Storage and Lighterage Company, dated September 25, December 4, and December 22, 1885, respectively; of a letter from the Pusey and Jones Company, dated January 30, 1886, and of one from William P. Clyde, dated January 30, 1886.

Very respectfully,

D. MANNING,
*Secretary.*

Hon. S. J. R. McMILLAN,
*Chairman of Committee on Commerce, United States Senate.*

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WILMINGTON, DEL., *January* 30, 1886.

W. P. CLYDE, Esq.,
35 *Broadway, New York:*

DEAR SIR: In reply to your inquiry, we have to advise you that we have expended upon the steamship Craigallion, for repairs to hull, machinery, and carpenter work, about the sum of $18,000.

We think that the further work proposed to be done to complete her for service will cost $10,000 to $15,000.

We are, very truly, yours,

The PUSEY AND JONES COMPANY,
By WILLIAM G. GIBBONS,
*President.*

H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 670.

# STEAMSHIP CAROLINE MILLER.

RUARY 23, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

DUNN, from the Select Committee on American Ship-building and Ship-owning Interests, submitted the following

## REPORT:

[To accompany bill S. 491.]

he Select Committee on American Ship-building and Ship-owning rests, to whom was referred the bill (S. 491) to provide for an erican register for the steamship Caroline Miller, have had the same er consideration and report it back with a recommendation that it s.

he committee have heretofore considered and favorably reported to House a bill identical with this bill, and refer to the report accomying that bill for the facts in the case. It is House report No. 311.

C

'H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
1st Session. } { No. 671.

# MYRON E. DUNLAP.

RUARY 23, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

NEGLEY, from the Committee on Military Affairs, submitted the following

## REPORT:

[To accompany bill H. R. 2013.]

*Committee on Military Affairs, to whom was referred the bill (H. R. 13) for the relief of Myron E. Dunlap, submit the following report:*

ıe facts out of which this claim for relief arises will be found clearly ɜd in House Report No. 50, first session, Forty-eighth Congress, ɜh report is hereto annexed.

appears that the reasons set forth in this report fully establish the ıess of the claim, and the committee therefore report the bill back the recommendation that it pass.

ron E. Dunlap entered the military service of the United States as second lieu-ıt of Company I, Seventy-eighth Regiment New York Volunteers. His associates at regiment bear testimony to his fidelity to duty as an officer during the time rved with it. He was honorably discharged from that regiment on the 6th day ecember, 1862. The motives which led to his dischar ɜe were these: His health ɔecome impaired and he felt unable to perform the duties devolving upon him. ubsequently entered the military service as first lieutenant in the Fourteenth York Artillery, and served with that regiment until the 23d day of January, when he was sentenced by a general court-martial to be cashiered and to be er disqualified from holding any office of profit or trust under the United States rnment.

ring the time he served in the Fourteenth Regiment of Artillery he made an ex-ıt military record. Lieut. Theodore P. Cook, of the Fourteenth New York Artil-says:

Ie (Dunlap) went to the field with the Fourteenth New York Artillery and was the regiment doing active service from the crossing of the Rapidan until the of his discharge, and was with the regiment in all the engagements during that At the battle of the Wilderness he was conspicuous in commanding the skir-line in front of our brigade, and in capturing a number of prisoners. Again, he 17th of June, 1864, at Petersburg, he had charge of the skirmishers in our t, and was exposed to a galling fire most of the day. In the evening of the same he was wounded in the shoulder from a piece of shell which glanced from a tree where the line was being formed. Lieutenant Dunlap was a brave, honorable ier, and I have always regarded his dismissal as a great outrage and a crime, and Government ought to set it right by placing him back on the muster-rolls of his ment, and by treating him in all respects as though he had been mustered out ı his regiment at the close of the war."

ent. C. A. Vedder, of the same regiment, testifies substantially in the same way, speaks in the highest terms of the soldierly qualities and bearing of Lieutenant lap.

Col. John Fisk, of the Second Mounted Rifles, New York Volunteers; Capt. B. R. Keefler, of the Seventy-eighth New York Volunteers; General E. G. Marshal, who commanded the brigade in which the Fourteenth New York Artillery was placed, severally speak in the most complimentary manner of Lieutenant Dunlap's high character and efficiency as an officer.

It also appears that Lieutenant Dunlap was active in raising two companies for the service, the first of which was attached to the Seventy-eighth New York Regiment, and of which Dunlap was second-lieutenant. The other company was attached to the Forty eighth New York Artillery, and Dunlap was made first lieutenant of that company.

There is no doubt whatever that the conduct of Lieutenant Dunlap, from the time he first entered the service up until the time he had some difficulty with the officer in command of the Fourteenth New York Artillery, was unexceptionable and praiseworthy. The difficulty arose in this way: Dunlap was senior first lieutenant of Company A on the first day of June, 1864, when he was transferred to Company C, in which he was junior officer. He protested against this transfer, and addressed his protest to brigade headquarters, but no notice having been taken of it, Dunlap believes that Capt. L. J. Jones, the officer in command of the regiment, did not forward it. He inquired of Captain Jones why it was that he was transferred from Company A to Company C. Captain Jones replied that he was incompetent to command a company.

On the 24th day of July, 1864, Dunlap was transferred to Company E of his regiment. He felt that the last transfer indicated an intention not to return him to his own command, where he would have been in the line of promotion. Feeling aggrieved, Lieutenant Dunlap tendered his resignation, whereupon Captain Jones procured charges to be made against him. A court-martial was convened at the headquarters of the First Division of the Ninth Army Corps. The charge was, "conduct prejudicial to good order and military discipline." There were two specifications to the charge. The first set forth that Dunlap did tender his resignation while in front of the enemy and under their fire. The second, that he did offer as a reason why his resignation should be accepted that he was incompetent. When the charges and specifications were read to him he asked that the hearing should be continued to the next day. This was refused. He informed the court that he would plead guilty to the specification that he had tendered his resignation, but to nothing else. The court thereupon considered the case, found him guilty of the charge and specifications, and sentenced him to be cashiered and forever disqualified from holding any office of profit or trust under the United States. When apprised of the civil disabilities imposed, Dunlap made application to the President for their removal, which was granted upon the recommendation of Judge-Advocate-General Holt. The following is his opinion:

WAR DEPARTMENT, BUREAU OF MILITARY JUSTICE,
*October* 5, 1864.

To the PRESIDENT:

In the case of Lieut. Myron E. Dunlap, Fourteenth New York Heavy Artillery, the following report is respectfully submitted:

He was tried by general court-martial at headquarters First Division Ninth Army Corps, July 28, 1864, for "conduct prejudicial to good order and military discipline." There were two specifications to the charge. The first set forth that he "did tender his resignation while in front of the enemy and under their fire." The second set forth that he "did offer as a reason why his resignation should be accepted that he was incompetent." He pleaded guilty to the specifications, and not guilty to the charge. He then requested an extension of time, to produce a witness for the defense, which the court refused. He was found guilty of the charge and specifications, and sentenced "to be cashiered, and forever disqualified from holding any office of profit or trust under the United States."

Lieutenant Dunlap, in making application for removal of the disability imposed by the sentence, says that the judge-advocate of the court had expressed the opinion that no severe punishment could be inflicted, and if the court thought the case merited so severe a punishment they should have given him the benefit of all the evidence he could produce. In a case of this description, in which the gravity of the offense depends so much upon the circumstances under which it was committed, every opportunity should have been given for the introduction of evidence.

No evidence was offered, and the accused did not avail himself of the privilege of making a statement. It appears, however, from the copy of a communication addressed by Lieutenant Dunlap to the assistant adjutant-general, Ninth Army Corps, that his reason for offering his resignation was that he had been in command of Company A, and on June 1, 1864, was transferred to Company C, in which he was junior officer, the commanding officer of the regiment giving as a reason for the transfer that he was incompetent to command a company. He protested to the commanding officer

of the brigade, but no notice was taken of his protest; he remained with Company C until July 24, when he was ordered to take command of Company E. Feeling that if he was incompetent to command Company A he was equally incompetent to command Company E, he offered his resignation on the ground of incompetency.

It is probable that his action was dictated by wounded pride, and not by a consciousness of incompetency; but though it was highly improper and deserving of punishment, it is conceived that the sentence of the court is heavier than the circumstances justified, especially as there is no express allegation in the specifications, and no evidence upon the trial, that his conduct was the result of cowardice or other improper motive.

Lieutenant Dunlap has filed the petition of twenty-six officers of his regiment, in which they certify to his character as a man and his efficiency as a soldier, and ask that the disability imposed by the sentence be removed.

In consideration of all the circumstances of the case, and the high standing of Lieutenant Dunlap as an officer, it is recommended that the request of the petitioners be granted.

J. HOLT,
*Judge-Advocate-General.*

The adjudication of this case is singularly objectionable. The denial of Dunlap's request for the postponement of the hearing that he might produce witnesses was extraordinary even for a court-martial; for the Army Regulations expressly provide that the judge-advocate shall summon the necessary witnesses for the trial; and the Articles of War also provide for the taking of depositions of witnesses.

See article 73, edition 1861, and article 93 of the revised Articles of War, which says: "A court-martial shall, for reasonable cause, grant a continuance to either party for such time and as often as may appear to be just." Also, in the decisions of the Judge-Advocate-General (1880), page 299, paragraph 13, it is made the duty of the judge-advocate of the court to see that the accused has a fair trial and an opportunity to make full defense.

In addition to this the Army Regulations expressly authorized volunteer officers to resign. On page 12, Army Regulations, 1861, paragraph 24, it is provided that "no officer will be considered out of the service on the tender of his resignation until it shall have been duly accepted by the proper authority." And paragraph 28, on same page, says: "In time of war, or with an army in the field, resignations shall take effect within 30 days from the date of the order of acceptance." And again, on page 497, Army Regulations, 1861, paragraph 1647, we find authority for resignations in the following most emphatic language: "Officers of the volunteer service tendering their resignations will forward them through the intermediate commanders to the officer commanding the department or *corps d'armée* in which they may be serving, who is authorized to grant them honorable discharges;" not to court-martial them for it, but to grant them honorable discharges, as the law provides. (*Vide* act approved July 22, 1861, section 10; Army Regulations, 1863, page 507.)

In the Digest of Opinions of the Judge-Advocate General, page 430, he says:

"While in time of peace an officer in the Army in good standing is in general entitled to tender and have accepted his resignation, yet, in time of war, or when grave embarrassment to the service or prejudice to discipline may result from his leaving his duty, the acceptance of his resignation may be refused."

But nowhere does he say that an officer in time of war shall be court-martialed and dismissed for tendering his resignation, except in the case where it is tendered pending an engagement, and then the charge against him would be cowardice and not "conduct prejudicial to good order and military discipline," as charged in this case.

As to the proper form of relief in such cases, it is laid down in the decisions of the Judge-Advocate-General, *supra*, page 478:

"In the case of a volunteer officer unjustly dismissed by sentence or order during the war, and applying for restoration, there is the obstacle (not encountered in the case of a regular officer) that the volunteer contingent of the Army has been long since disbanded, so that a restoration to office in the same is impracticable. And as a dismissed officer cannot of course be granted an honorable discharge from the Army without first being readmitted to the Army by a new appointment, and as a volunteer officer cannot as such be so readmitted, advised (February, 1880), in a case of a volunteer officer applying for relief on account of an unjust dismissal, that the form of relief most apposite to his case would be a special enactment giving him pay from the date of his dismissal—reciting that the same was based upon insufficient grounds—to the date of the final muster out of his regiment, precisely as if he had continued in the service during the interval."

As several acts of Congress have been passed since the close of the late war for the purpose of correcting the military records of dismissed officers and privates, the relief sought for in this case is not without precedent.

lery, was then a part, that he would not have been brought befo
I feel certain that if the late General and Senator Burnside was
feelingly as myself coincide with me that an error, a great mora
done this officer in his dismissal. I can only account for it th
Corps about that time went into the charge that succeeded the P
plosion.

I shall be thankful if you will please examine his case in its legal
desire, my military record, and trust you will take an interest to
wrong done him, his children, and family. I know him in no oth
gallant and faithful officer, and I can have but one feeling of askin
be done him.

I am, very respectfully, your obedient servant,

E. G. M

*Col. and Bvt. Brig. Gen., U. S. A., and Bvt*

Lieutenant Dunlap simply desires that the stain upon his record
He does not ask for pay or allowances of any kind. The restoratio
is all that he seeks for. The question as to the power of Congre
judgment of the court-martial ought not to be raised in this case.
the power of Congress in that regard, it will surely not be contend
founded upon a charge under an article of war which had no appli
fication which was not cognate to the charge, can be otherwise t
lacks such a judgment; lacks all the essentials of validity, and amo
than a stain upon the military record of the party convicted.

Your committee contends, however, that Congress has power to s
void the judgment of a court-martial, though it may be regular and
ance with military law. The power of Congress to legislate upo
fall within the purview of the Constitution is unlimited, unless the
pressly or by implication, forbids the exercise of the power. Con
to pass a bill of attainder or an ex post facto law, nor any law whi
obligations of contracts. But when Congress enacts laws and art
subject certain classes of the people to their control, to the perfo
duties, or to the duties of the military or naval service, it can su
tinguish that which has been done, regular or irregular, in pursua
unless the undoing of it should violate some mandate of the Consti

The committee therefore holds that Congress has the power to
ment in this case.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 672.

# CINNABAR AND CLARK'S FORK RAILROAD COMPANY.

FEBRUARY 23, 1886.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. PAYSON, from the Committee on the Public Lands, submitted the following

## REPORT:

[To accompany bill H. R. 5880.]

*The Committee on the Public Lands, to whom were referred the bills (H. R. 2881 and H. R. 3756) granting right of way to the Cinnabar and Clark's Fork Railroad Company, respectfully report:*

That they have given these bills very careful consideration, and unanimously recommend the passage of the accompanying substitute bill. They have reached this conclusion after careful review of the facts.

The company was chartered in 1884, under the laws of Montana, to construct a railroad from Cinnabar, a point on the Livingston branch of the North Pacific Railroad, to Cook City, in Southern Montana, a total distance of about 56 miles.

Cook is the central point of the New World, or Clark's Fork mining district. Over 500 mines have been located and well prospected, and many of them in successful operation, within the range of a few miles from that point. This district is one of remarkable richness, and your committee believe it to be of national importance that its development should be promoted. It is located in a mountainous region, wholly inaccessible by any practicable route except that proposed in the bill. The turns of the river necessarily carry the road into the northern border of the National Park, running out of it again to reach its terminus in Southern Montana.

The Park at present is 65 miles in length from its northern to its southern boundary, and will be over 75 miles if the bill to change its boundaries now pending in the Senate should become a law.

By the Government exploration under Professor Hayden, in 1878, the railroad following the course of the river would lie close along the northern boundary of the Park, reaching, by a sudden bend of the East Fork to the south, a point about 6, and not exceeding 7, miles below the northern boundary, and this for only a short distance. If, however, the county map of Gallatin County, said to have been made from an actual survey of the river in 1884, be correct, the river, so far as it would be followed by this railroad, lies outside of the Park for most of its distance; and the farthest point south which it would reach would not be more than 2 miles below the northern boundary and for a distance not exceeding 10 miles; but whichever map be correct, there is nothing of interest except these mines to attract tourists or travel of

so expensive as practically to preclude the working of

It has been represented to the committee that an ex
ment of about 150 tons of ores from the Black Warrio
mines, at Cook City, was made to Omaha, the nearest r
The ores averaged $112.50. The cost of reduction was
the transportation was $92 per ton, giving to the miner
cover mining and other expenses. With railroad fac
transportation would not have exceeded $45 per ton.

The committee deem it appropriate further to say tha
preservation of the Park for the purposes for which it w
they are unable to see how any such purposes can be
by granting a right of way to a road which merely dips
ern border of the Park for a short distance, in a part
tains no objects of interest, and where no other practica
by which those mines can be reached.

The bill carefully guards the interests of the Park by
taking of any material for construction outside of the lin
of way, which is limited to 100 feet each side of the
there is no timber in that portion of the Park along the

The following extracts from official and other sources
as part of the evidence on which the conclusions of the
based:

Daniel C. Kingman, Engineer Corps, U. S. A., in cha
ment of Yellowstone National Park, in his report for 1
Doc. 47, part 3, page 10, Forty-eighth Congress, first
mends an appropriation of $20,000 "for the repair of t
road from Yancies via Soda Butte to the boundary of the
rection of the Clark's Fork mines, and says:

This route is off the ordinary line of tourist travel. The mines,
to be of unusual richness, and a large mining camp is growing up a
inhabitants of this region receive their mail from the terminus of t
nabar, Mont., over this road. In the same way all their supplies,
ery reach them, and the products of their mines must seek the ma

The present road is in a very bad condition, almost impassable
and there seems to be no way of improving it unless it is done by
ernment. Being in the Park, it does not belong to any county, an

It is known that a flourishing mining camp has been established at Clark's Forks, and valuable and productive mines have been opened at that point.

To refuse to afford those interested in the developement of this mining region the benefits of the cheaper means of transportation a railroad would supply, merely because the road must enter the Park, and where its construction would not tend to subvert the purpose for which the Park was set aside, or interfere with the public enjoyment of its wonders, would be unreasonable.

In view of the apparent commercial necessity for its construction, I do not know of any sufficient reason why the desired right of way should not be granted.

Mr. Henry Gannett, of the United States Geological Survey, who made the exploration of the northern portion of the Park under Professor Hayden from which the map of 1878 was compiled, in a letter dated February 19, 1884, submitted to the committee, says:

The road proposed is the only one practicable to reach those mines. The ridges of the Shoshone and Yellowstone range trend in a general north and south direction, and any railroad attempting to reach these mines from the west must cross them nearly at right angles. These mountains are extremely rugged, and contain very few passes practicable even for pack animals. That at the head of the East Fork, which it is proposed to use for this railroad, is the only one available for this purpose.

In my judgment a railroad on this route cannot injure the Park as a pleasure resort. It traverses a region in which there are no objects of interest, with the exception of the third cañon of the Yellowstone and of the Shoshone Mountains, which differ in no essential particular from similar scenery elsewhere.

General A. Anderson, chief engineer of the Northern Pacific Railroad, in a letter of May 10, 1884, says:

Any route to the Clark's Fork mines, leaving the Northern Pacific Railroad, east of Livingston, must cross the main range of the Snow Mountains, which is very high, of very steep descent on north side, and cannot be surmounted at reasonable cost without the use of grades of probably 150 feet or more per mile. The Snow Mountains are noted for their heavy snow fall, which commences early in autumn and lies late in the spring. It is doubtful if a road could be operated except at an expense far beyond any possible return of cost. To conclude, a railroad to Clark's Fork mines across the Snow Mountains will be so costly of construction, and so difficult and expensive to operate, that it will never be built. The only feasible route is by way of the Yellowstone River. It would pass across a corner of the National Park but little visited by tourists, and wholly devoid, I believe, of those natural features calculated to attract them.

In a letter of January 28, 1886, in reply to further inquiry, General Anderson reiterates his statement that the route up the Yellowstone River is the only practicable route, and says:

There is no other practicable route existing for a road to the Clark's Fork mines. Several others have been suggested, the principal ones being to build up the stream known as the Clark's Fork from near Billings, and the other to ascend the Boulder River. It is perhaps possible to build a railroad on one or the other of these lines, but from information derived from Army officers who have had occasion to pass through the country, I am confident no practicable route exists. Clark's Fork runs for many miles in a cañon through which, I believe, no one has ever been able to pass.

The Clark's Fork mines are situated on the head waters of a stream entering into the Yellowstone River in the National Park, and to reach them through or by the Clark's Fork would require the line to cross the main divide between Clark's Fork and the Yellowstone River, the elevation of which is probably about 9,000 feet above the level of the sea, and cannot be surmounted except at great cost, and by using excessive grades, exceeding 200 feet to the mile.

The route by Boulder River is equally bad, if not worse. It would require crossing the Snow Mountains, one of the most rugged ranges in Montana and covered with perpetual snow.

The richness and value of the Clark's Fork mining district have been known for many years.

Professor Hayden, in his report for 1872, says:

About the sources of the Middle Fork and Clark's Fork are some very interesting silver mines, not yet developed to any extent, but the ore, which is galena, looks well, but the mines are so difficult of access, so far from market, and the seasons are so short, *that their value is nominal* at this time.

chasers reasonable access to their property by railroad
only practicable means, and by the route proposed in t
the committee is satisfied is the only possible road by wh
can be reached.

These views are confirmed by letters from several oth
miliar with the country, all of whom concur in saying th
practicable route to reach the Clark's Fork mining dis
way of the Yellowstone River.

Many letters, memorials, reports of public meetings,
submitted to the committee, showing an intense interes
in Southern Montana, and most earnestly praying that t
through the Park be granted for this road.

All these papers, and others not cited, and the maps
in the hands of the committee, and accessible to all wh
spect them.

The committee believes the present bill carefully gu
against any abuse, fully protects the public, and require
built and running within three years, or the right of wa
be forfeited.

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[H. R. 5880, Forty-ninth Congress, first session.]

Mr. PAYSON, from the Committee on the Public Lands, reported th
a substitute for H. R. 2881 and 3756:

A BILL granting a right of way to the Cinnabar and Clark's Fork Railroad Co

*Be it enacted by the Senate and House of Representatives of the Unite
in Congress assembled,* That a right of way is hereby granted the Cin
Fork Railroad Company, a corporation duly organized under the law
of Montana, across such portions of the northern border of the Yell
Park as may be necessary to reach, by the nearest practicable rout
the Clark's Fork mining district, in said Territory of Montana, b
Yellowstone River to its junction with the East Fork of said river; t
of said East fork to the Soda Butte Creek; thence by said creek to
mining district, upon such location as may be approved by the Sec

tracks, turnouts, and water-stations, shall be filed with the Secretary of the In-
r and be duly approved by him. No timber or other materials to be used in the
truction of said railroad shall be cut or taken from any portion of the Yellowstone
onal Park, except such as may be cut or taken within the right of way hereby
ted; and the grants hereby made are limited also so as not to include any coal or
mineral found on said right of way; nor shall said company, or its successors,
he property given hereby for any purpose except in the construction and opera-
of a railroad.

:. 2. That all charges for transportation of either freight or passengers over said
ad shall be reasonable, and without discrimination as to persons, shippers, or
gnees; no rebates or drawbacks of any kind or nature shall be allowed, directly
lirectly, to any patron of the railroad; nor shall there be any unjust discrimi-
n in the facilities afforded shippers or consignees at any station on the line of
ailroad; and as to these and all kindred matters Congress reserves the right to
all necessary regulations as to said railroad, in consideration of this grant, as
as to alter or amend this act.

:. 3. That if said road shall not be constructed and in running order within three
from and after the passage of this act, the right of way hereby granted shall
upon be forfeited, and this condition is expressly understood to be a condition
dent as to all rights granted hereby; and in case of a breach of the condition
is section, all rights granted hereby shall revert to the United States by opera-
of this provision, without the necessity of any action by Congress: *Provided*,
the grant hereby shall not be held or construed as exclusive, so as to prevent
llowance of the locating other roads along the valley or route adopted under
act, under such grants and regulations as Congress may make and provide and
ourts equitably administer.

H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
1st Session. } { No. 673.

# DECEASED KICKAPOO INDIANS IN KANSAS.

EBRUARY 24, 1886.—Referred to the House Calendar and ordered to be printed.

Ir. PERKINS, from the Committee on Indian Affairs, submitted the following

## REPORT:

[To accompany bill H. R. 710.]

*e Committee on Indian Affairs, to whom was referred the bill (H. R. 710) to provide for the settlement of the estates of deceased Kickapoo Indians in the State of Kansas, and for other purposes, have had the same under consideration, and report:*

That the necessity for the proposed legislation is shown in Senate Ex. oc. No. 19 of the present session of Congress, a copy of which is tached hereto and made part of this report. These lands are situated Atchison County, Kansas, and are quite valuable, but under exist- conditions the Indians are not able to secure patents to them from Government or to control them, as was originally contemplated and igned.

No provision is made in the treaty nor in subsequent treaties or acts Congress whereby female allotters under the second article of the aty can obtain patents for their lands, and many members of the tribe, o took lands in severalty in accordance with the provisions of the aty, deceased before having obtained patents for their allotments, ving heirs who cannot, under any existing law or treaty provision, tain title to the same. To cure these evils and others, shown in the ter of Commissioner Price, under date of January 11, 1882, is the ob- ct of the proposed bill. The bill was prepared in the Indian Office, d seems to be sufficient to remedy existing difficulties, and is satisfac- y to all, and has passed the Senate three different times.

The committee think the bill right, and recommend its passage.

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[Senate—Ex. Doc. No. 19, Forty-ninth Congress, first session.]

*sage from the President of the United States, transmitting a communication from the Sec- etary of the Interior relative to the settlement of estates of deceased Kickapoo Indians in Kansas.*

EMBER 21, 1885.—Read and referred to the Committee on Indian Affairs and ordered to be printed.

*the Senate and House of Representatives:*

transmit herewith a communication of 15th instant from the Secretary of the Inte- r, submitting, with accompanying papers upon the subject, a draft of a bill "to pro- le for the settlement of the estates of deceased Kickapoo Indians in the State of Kansas, d for other purposes."

The matter is presented for the favorable consideration of Congress.

GROVER CLEVELAND.

EXECUTIVE MANSION,
*December 21, 1885.*

fully request that the matter may be presented for the consideration a
gress.

I have the honor to be, very respectfully, your obedient servan
L. Q. C. LA

The PRESIDENT.

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DEPARTMENT OF THE INT
OFFICE OF INDIAN
*Washington, No*

SIR: On the 26th of November, 1883, this office submitted to the D
third time the draft of a bill to provide for the settlement of the estates
apoo Indians in the State of Kansas, and for other purposes, which w
Congress, through the President, December 3, 1883.

This bill passed the Senate June 2, 1884, but did not receive consider
of Representatives.

The necessity for the passage of this bill is set out in the correspo
House Ex. Doc. No. 16, Forty-eighth Congress, first session, and still

I therefore have the honor to recommend that the bill be again pres
with request for favorable consideration.

I inclose two copies of the executive document referred to (which
the bill) and of this report.

Very respectfully, your obedient servant,
J. D. C.

The Hon. SECRETARY OF THE INTERIOR.

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[House Ex. Doc. No. 16, Forty-eighth Congress, first session.]

*Message from the President of the United States, transmitting comm*
*Secretary of the Interior relative to settlement of estates of deceased K*
*Kansas.*

DECEMBER 11, 1883.—Referred to Committee on Indian Affairs and ordere

*To the Senate and House of Representatives:*

I transmit herewith a communication from the Secretary of the
instant, submitting with accompanying papers draft of a bill "to pro
ment of the estates of deceased Kickapoo Indians in the State of Kar
purposes."

The matter is presented for the consideration of the Congress

'his matter was the subject of a communication addressed by you to the Congress, undate of January 18, 1882, and the bill, as I am informed, passed the Senate March 1882, but failed to pass the House of Representatives. (See Senate Ex. Doc. No. 55, ty-seventh Congress, first session, herewith inclosed.)

now have the honor to renew the recommendation of the Department, and respecty ask that the matter may again be presented for the consideration and action of the igress.

I have the honor to be, very respectfully, your obedient servant,

H. M. TELLER,
*Secretary.*

'he PRESIDENT.

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## KICKAPOO INDIANS IN KANSAS.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
*Washington, November* 26, 1883.

IR: Under date of January 11, 1882, I had the honor to submit for the consideration he Department a draft of a bill to provide for the settlement of the estates of deceased kapoo Indians in the State of Kansas, and for other purposes, which was approved Secretary Kirkwood and transmitted to Congress through the President January 13, 2, together with a copy of a letter from Hon. John J. Ingalls, United States Senate, ing the attention of the Department to the necessity of legislative relief upon some he points provided for in the bill.

'he proposed bill passed the Senate March 29, 1882, but failed of passage in the House Representatives.

s the matters covered by the bill are of great importance to the Indians affected reby, I have the honor to recommend that it be again transmitted to Congress, with quest for favorable action.

inclose two copies of the bill and of this report, and also of S. Ex. Doc. No. 55, Fortyenth Congress, first session (printed), containing office letter of January 11, 1882, and partment letter of January 13, 1882.

Very respectfully, your obedient servant,

H. PRICE,
*Commissioner.*

'he SECRETARY OF THE INTERIOR.

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[Senate Ex. Doc. No. 55, Forty-seventh Congress, first session.]

*sage from the President of the United States, transmitting a communication from the Secetary of the Interior, with draft of a bill, in reference to the settlement of estates of deceased Kickapoo Indians in the State of Kansas.*

UARY 18, 1882.—Read, referred to the Committee on Indian Affairs, and ordered to be printed.

*the Senate and House of Representatives:*

transmit herewith a communication from the Secretary of the Interior, with draft bill and accompanying papers in reference to the settlement of the estates of deceased kapoo Indians in the State of Kansas, and for other purposes.

'he matter is commended to the attention of Congress.

CHESTER A. ARTHUR.

EXECUTIVE MANSION,
*January* 18, 1882.

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DEPARTMENT OF THE INTERIOR,
*Washington, January* 13, 1882.

IR: I have the honor to submit herewith for your consideration a draft of a bill to proe for the settlement of the estates of deceased Kickapoos in the State of Kansas, and other purposes, which has been prepared in the office of the Commissioner of Indian airs.

'he proposed legislation, which extends the provisions of Article III of the treaty with Kickapoos of June 28, 1862, proclaimed May 28, 1863 (13 Stats., 623), also provides

The PRESIDENT.

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DEPARTMENT OF THE INT
OFFICE OF INDIAN
*Washington, Ja*

SIR: I have the honor to acknowledge the receipt, by your referen recommendation thereon, of a letter dated the 14th ultimo from Sen relative to certain Kickapoo Indian lands in Kansas.

In reply I have to state that in my annual report for the year 1881 to the condition of affairs relative to the estates of certain deceased K to whom lands were allotted in severalty, under the provisions of the them June 28, 1862 (13 Stats., 623), and relative to the acquirement b members of said tribe of patents for their lands.

The amended 2d article of said treaty provides for the assignment of bers of said tribe either in severalty or in common, at their option.

By the amended 3d article of said treaty it is provided that, whene of the United States shall become satisfied that any of the adult mem "being males and heads of families," to whom lands were assigned i cordance with the provisions of said 2d article, are sufficiently intellig to control their affairs and interests, he may cause patents in fee simpl for the lands so assigned, provided said persons shall, before making a ents, as provided in this article, appear before the United States distr sas, and make the same proof and take the same oath of allegiance as i for the naturalization of aliens.

No provision is made in said treaty, nor in any subsequent treaty o whereby female allottees under said 2d article can obtain patents fo as many of them are sufficiently intelligent and prudent to control th is desired that the provisions of the 3d article of said treaty be extende

Many of those members of said tribe, who took lands in severalty i the provisions of the 2d article of said treaty, deceased before having for their allotments, leaving heirs who cannot, under any existing l vision, obtain title to the same; and it is deemed desirable that the la Kansas applicable to the settlement of the estates of deceased citizens th to the estates of deceased Kickapoo Indians. The attempted settlement these lands has been the cause of much trouble to the tribe and to this

Numbers of the allottees under said 2d article deceased before receiv ing *no heirs*, and the lands allotted to them should be sold for the ben poo tribe of Indians.

For the purpose of acquiring the desired legislation relative to the m

**ILL to provide for the settlement of the estates of deceased Kickapoo Indians in the State of Kansas, and for other purposes.**

*le it enacted by the Senate and House of Representatives of the United States of America in ngress assembled*, That the beneficial provisions of the amended third article of the ıty between the United States and the Kickapoo tribe of Indians of Kansas, made ıe twenty-eighth, eighteen hundred and sixty two, and proclaimed May twenty-ıth, eighteen hundred and sixty-three, be, and the same hereby are, extended to all ılt allottees under said treaty, without regard to their being "males and heads of ıilies," and without distinction as to sex.

EC. 2. Where allottees under the aforesaid treaty shall have died or shall hereafter ease, leaving heirs surviving them, and without having obtained patents for lands ıtted to them in accordance with the provisions of said treaty, the Secretary of the erior shall cause patents in fee simple to issue for the lands so allotted, in the names he original allottees, and such allottees shall be regarded, for the purpose of a care- and just settlement of their estates, as citizens of the United States and of the State Kansas; and it shall be competent for the proper courts to take charge of the settle- nt of their estates, under all the forms, and in accordance with the laws of the State Kansas, as in the case of other citizens deceased; and where there are children of ıttees left orphans, guardians for such orphans may be appointed by the probate court he county in which such orphans may reside; and such guardians shall give bonds, ıe approved by the said court, for the proper care of the person and property of such ıhans as provided by law.

EC. 3. Where allottees under said treaty shall have died, or shall hereafter decease, ving no heirs surviving them, and without having become citizens and received ents for their allotments, as provided in the third article of said treaty, the Secretary he Interior shall cause to be appraised and sold for cash, in such manner as he may ct, the lands of such allottees; and after paying the expense incident to such ap- isement and sale, the net proceeds thereof shall be deposited in the Treasury of the ited States to the credit of the said Kickapoo tribe of Indians, to be expended in such nner as the Secretary of the Interior may deem best for the benefit of the said tribe.

EC. 4. The Secretary of the Interior shall cause patent in fee simple to be issued for lands sold under the provisions of the preceding section, in the same manner as ents are issued for the public lands.

TH CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
1st Session. } { No. 674.

# HENRY ANIN.

BRUARY 24, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

-. PIDCOCK, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 5334.]

*e Committee on Invalid Pensions, to whom was referred the bill (H. R. 334) granting a pension to Henry Annin, submit the following report:*

The soldier was a private in Company A, Forty-first Regiment United ates Colored Troops. In his declaration for a pension he alleges that ar Fort Harrison, Va., about December 1, 1864, while marching, a rade beside him stepped on a plank which flew up and caught his t, causing him to fall and sprain and dislocate his left ankle. The im was rejected because there was no record of the injury. From timony in the case it appears that the soldier, in 1840, had a weakness one of his ankles, but was entirely recovered from it many years or to his enlistment, and it is proven by a number of neighbors living y near him, and employers, that at the time of his enlistment and for ny years previous he was a sound, healthy man, free from any weakss of his ankles, and was able to do and did do heavy manual labor. Claimant's comrades testify to the injury being contracted in the servand line of duty as alleged, and further, that the soldier was lamed whole of the time he remained in the company thereafter, and that was treated for said sprained ankle in the service.

The Surgeon-General furnishes no record of treatment, for the reason t there are no records on file. Neighbors of the soldier testify that his return in 1865 he was completely disabled for work about a year l suffered constantly from his injury to left ankle and chronic diarra; that his disabilities have become permanent, and he is broken wn in health and largely incapacitated for continuous labor. Some them, employers, add that the soldier has attempted to work for them, t was not able to perform any hard labor by reason of his stiff leg; t he is obliged to use a cane, and unable to work over one-half the e.

Various physicians have treated the soldier since his return from the my, who state that he suffers from partial dislocation of the tibia at t ankle, rendering it weak and unhealthy, and that his physical conion is weakened thereby.

It appears, too, that he has received treatment for chronic diarrhea, o alleged to have been contracted in the service.

A careful examination of the papers in the case show that the soldier now about sixty-five years of age, and is and has been since his re-

turn from the Army a constant sufferer from his disabilities and la incapacitated for work; that he is honest in his statement as t weakness of his ankle twenty years or more prior to entry into se which he stated voluntarily, but adds that he fully recovered fr many years prior to his service in the Army, as is also testified his neighbors and employers at that time. If this statement h been made, in all probability his pension would have been allowe at the Pension Office.

Your committee think this a meritorious case, and one which be allowed, and therefore recommend the passage of the bill.

Amend the bill by striking out the letter "n" in the name of cant, so it will read "Anin."

O

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 675.

# PHILIP DEREMER.

BRUARY 24, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

r. PIDCOCK, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 5335.]

*he Committee on Invalid Pensions, to whom was referred the bill (H. R. 5335) granting a pension to Philip Devemer, submit the following report:*

Philip Deremer, late private of Company B, Thirty-first Regiment ew Jersey Volunteers, filed his application for pension, claiming dis- ility from sunstroke, resulting in convulsions, pain in the head, and eak eyes, received about May 15, 1863, while on dress parade in line duty at Falmouth, Va. The claim was rejected on the ground that ere was no record of the disability.

In support of his claim for pension the soldier filed the affidavits of ne of his neighbors who knew him intimately before his enlistment the service, who testify from personal knowledge that he was then d at the time of enlistment a sound, healthy man, and had never been ubled with sunstroke or epileptic convulsions resulting therefrom, d an affidavit from Dr. P. G. Creveling, his family physician, who stifies that he had no nervous or chronic troubles at time of enlistment, d was a sound, healthy man.

Three of soldier's comrades testify that they were present on dress rade at the time he received the sunstroke, and that he was subject ring the remainder of his service to epileptic fits and convulsions, d was treated in the service by Dr. Jennings, one of the surgeons of regiment.

One of the comrades further states that he was present when the sol- r was carried away, and heard Dr. Jennings pronounce it a sun- oke.

The Adjutant-General reports these comrades present at the time of eged sunstroke, and the Pension Office inquiries show their reputa- n for truthfulness good beyond dispute.

Nine neighbors and employers of the soldier since his discharge tes- y that he has been and is continually subject to fits and convulsions, d that they are so frequent and produce such a strain on his nervous stem that he is only fit to do light labor, and that not continuously.

Dr. S. A. McCosh testifies to treating soldier for epileptic convulsions, lowed by headache and debility, and that he is disabled from doing

[illegible] have at least one-third of his time, and that he could [illegible] that the conditions were hereditary.

The testimony of other physicians also fully verify his statement.

From the testimony presented your committee deem this a meritorious case, and recommend the passage of the bill.

Among the bill in striking out the letter "x" in name of the [illegible] and inserting "x" so it will read "Brezner."

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19TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 676.

# EDWARD L. HILL.

EBRUARY 24, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PIDCOCK, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 5333.]

*he Committee on Invalid Pensions, to whom was referred the bill (H. R. 5333) granting a pension to Edward L. Hill, submit the following report:*

Edward L. Hill, late private of Company G, Fifteenth Regiment w Jersey Volunteers, in his declaration for pension alleged that at afford Court-House, Va, November 24, 1862, in the line of duty, received an injury to his head by being run over by cavalry; also, the same place, March 2, 1863, he incurred an injury to his right foot m the cut of an ax while cutting timber to repair roads, and that the st injury caused great suffering in his head, resulting in deafness of ht ear and partial deafness of the left ear. Itappears, also, that he ntracted chronic diarrhea while in the service.

The report of the Adjutant-General shows that the company marched Stafford Court-House, Va., November 18, 1862, and reports the sol- er absent sick in general hospital March and April, 1863, to April , 1864, and then transferred to Invalid Corps. Cause of transfer to teran Reserve Corps, diarrhea and deafness.

From the report of the Surgeon-General it appears the soldier en- ed regimental hospital (the date of admission and diagnosis not en) and was transferred April 8, 1863; entered First Division Hos- al, Sixth Army Corps, near Potomac Creek, Virginia, April 7, 1863, th "incised wound"—disposition not given; again admitted to hos- al April 28, 1863, with "injury to foot"—disposition not given; en- ed Lincoln General Hospital, Washington, D. C., June 14, 1863, with elatio," and was transferred June 16, 1863; entered McKim's Mansion neral Hospital, Baltimore, Md., June 17, 1863—diagnosis not given; tered Hammond General Hospital, Point Lookout, Md., July 4, 1863, th "debilitas," and was transferred September 8, 1863, to general hos- tal, Newark, N. J., with deafness, and was transferred to Invalid rps February 4, 1864—cause, diarrhea and deafness.

Claimant's comrades testify that he received his injuries as alleged, d was treated by the assistant surgeon of the company and in hos- tals, and also suffered from chronic diarrhea while in the service.

It is also shown from the testimony of neighbors and employers that e soldier has been a constant sufferer since discharge from his inju- s, and has had long periods of illness during this time from the ef- ts of them, and largely incapacitated for performance of manual labor.

mately, testify that prior to and at the date of enlistment
man, entirely free from deafness, as well as the other disa
while others, from general information, and who did n
intimately nor have the same intercourse with him, test
affected with a slight deafness. It seems from a careful
the papers in this case that the examiner's desire was
soldier's claim.

Your committee feel obliged to accept the testimony
employers of the soldier prior to enlistment, whose know
from personal acquaintance in the daily field of labor,
testimony from those whose acquaintance with the sol
and whose desire it may have been to prejudice his case
sion Office, and give the soldier the benefit of the do
soundness, considering that the records from both the Ad
geon General's offices show the injuries received in s
treatment in hospitals therefor, and therefore consider th
case and recommend the passage of the bill.

O

H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 677.

# BENJAMIN S. WOLVERTON.

BRUARY 24, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

. PIDCOCK, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 5336.]

*e Committee on Invalid Pensions, to whom was referred the bill (H. R. 5336) granting a pension to Benjamin S. Wolverton, submit the following report:*

The claimant enlisted as private in Company A, Fifteenth Regiment ew Jersey Volunteers, July 22, 1862, and was discharged June 22, 1865. n his application for pension he alleged disability from rupture of right de, received about October 19, 1864, at Cedar Creek, Virginia, by being rown from a horse in the line of duty while attending to his duties as brigade butcher in Quartermaster's Department. The claim was re-ted on the ground that there is no record at the War Department of e existence of the alleged injury.

Dr. George R. Sullivan testifies that he examined the soldier at the e of his enlistment and that at that time he was a sound man and e from rupture of any kind, and his statement is supported by Dr. hn S. Lindaberry, the family physician of the soldier at that time, d by neighbors.

Manual Kline, the first sergeant of soldier's company, testifies that e soldier was detailed as regimental butcher at the time of the receipt the rupture, and E. L. Campbell, lieutenant-colonel of same regiment, tifies to the truthfulness of his statements.

William Brant, the first sergeant of Company A, First New Jersey teran Volunteers, testifies that the soldier was ruptured by the fall m a horse while doing duty as a regimental butcher at the time and ce stated, having been detailed with Brant to take charge of a herd attle, and states that after being thrown from his horse the soldier s so disabled as not to be able to mount again, and did only light ty afterwards, on account of his rupture of right side.

Daniel Philips, one of the soldier's comrades, testifies that the rupture s received as claimed, and that he was placed under the treatment Dr. Sharp, the brigade surgeon, and as to seeing the soldier fre-ently use the remedies prescribed by him.

Naum Cregar, another comrade, supports his statements, as well as enjamin F. Wean, also a comrade, who adds that he saw the soldier's *pture of right side,* near the groin, some little time after it was re-

ceived, while in the service, and that the soldier has suffered cons
from said rupture since his discharge.

From the testimony in the case it appears that the soldier h
fered continually from his rupture of right side since his dischar
largely incapacitated for the performance of manual labor.

Your committee deem this a meritorious case, and recomm
passage of the bill.

NGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
ssion. } { No. 678.

# NOAH HOFFMAN.

24, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

OCK, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 5328.]

*mittee on Invalid Pensions, to whom was referred the bill (H. R. anting a pension to Noah Hoffman, submit the following report:*

ldier was a corporal in Company C, Ninetieth Regiment New lunteers, and in his declaration for pension alleges that at Key a., in January, 1862, while doing picket duty, in attempting to itch, his bayonet to his gun caught in the bank, causing him to ily, producing hernia of both sides, for which he was treated in al and post hospitals, and finally discharged March 6, 1862, on e of disability because of hernia.

he testimony of the soldier's family physician and neighbors it conclusively that prior to and at the time of his enlistment, er was in good sound bodily health and free from hernia of any ome of the witnesses testify, from personal knowledge, having soldier in bathing but a short time prior to enlistment.

N. Smith and Nathan L. Tiger, two comrades, testify that the eceived the hernia of both sides as alleged. Tiger, who was an ss, states that an alarm was given in the night and the soldier out with comrades, and in crossing a ditch in the dark the bay- is gun caught in the bank and he fell, causing hernia of both oth saw the rupture frequently in the service and almost im- y after it was received, and testify that he was treated for it in ce and was obliged to wear a truss constantly.

amining surgeon rated the soldier's disability from double her- tal, and states "both are direct inguinal hernia. They can replaced, but come down on either coughing or straining."

vits from a number of claimant's neighbors show that since dis- e has suffered constantly from double hernia and obliged to uss continuously, and that he is incapacitated for work at least nths in the year.

. C. Alpaugh testifies that the soldier has on the left side an nguinal hernia of large size, which takes a great deal of sup- eep it up. That the hernia of right side is not large but affects iderably, and adds that it is almost impossible for him to do y work or lifting.

*nsion Office do not* allow this claim because the claimant can-

not furnish the testimony of another eye-witness to the receipt of his hernia.

From the quantity of testimony on file from reliable witnesses and the soldier's family physician, proving conclusively that the soldier was a sound man at date of enlistment, and from testimony presented from the soldier and his comrades, with the surgeon's certificate of disability, your committee are of opinion that said double hernia was received in service and line of duty, and therefore recommend the passage of the bill.

○

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 678½.

# MARY B. HOLMES.

ɪY 24, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

ɔCOCK, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill S. 806.

*nmittee on Invalid Pensions, to whom was referred the bill (S. 806) ing a pension to Mary B. Holmes, submit the following report:*

committee report that this bill has passed the Senate of this ss, and would respectfully adopt the report of Mr. Sewell, from ıate Committee on Pensions, as setting forth the facts in the

mmittee find upon examination of this case, that a bill (S. 2607) granting a ;o the said Mary B. Holmes, widow of John W. Holmes, was passed at the ion of the Forty-eighth Congress and approved by the President on the 3d larch, 1885.

wing to an error in the name of the said John W. Holmes (who was in the styled "Henry" W. Holmes), the said Mary B. Holmes was precluded from g such pension as was granted by said act.

mmittee, therefore, in manifest justice to Mrs. Holmes, desire to, and here- present as their report that made by the Committee on Pensions last year, ı the same favorable recommendation for its re-enactment, as follows:

ioner is the widow of John W. Holmes, late lieutenant Company F, Seventy- egiment New York Volunteers, who was pensioned at the rate of $15 per ı account of disability incurred in the service and resulting from disease of and chronic diarrhea. Her husband was killed by a freight train in New y in 1881, and his widow is now destitute. She asks a pension on the ground accident which caused his death was the result of his defective vision and is own carelessness or neglect. The soldier's death, under these circum- did not, of course, result directly from his military service, but does seem to n due to the disabilty incurred in the service, and to that extent was a re- eof.

ng this view of the case, your committee are disposed to regard the claim as a ous one, and therefore recommend the passage of the bill."

CONGRESS, Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 679.

# EMELINE CRAWFORD.

RUARY 24, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

. MORRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 5527.]

*Committee on Invalid Pensions, to whom was referred the bill (H. R. 527) granting a pension to Emeline Crawford, submit the following port:*

Ve find that claimant is the widow of Daniel S. Crawford, who isted in Company A, Forty-seventh Pennsylvania Volunteers, Feb- ry 23, 1864, and was discharged May 21, 1865. The certificate of ability upon which he was discharged gives as a reason "the primary putation upper third of right leg following gunshot wound by frag- nt of shell which broke up the left ankle. Tertiary amputation was formed for cure of retraction and sequestration." For this he received ension from the date of his discharge until his death. The widow's lication for a pension was rejected on the ground that the death of soldier was not the direct result of the injury received in the service. r. B. M. Gray testifies:

ived a near neighbor to this claimant's husband from about July, 1876, until the day is death, February, 1881; was his family physician nearly the whole of that time; he was first called to treat him about July 7, 1876, for ulceration of the stump of amputated leg, for which ulcers he treated him for two years or more before he eeded in healing them; that he also suffered from partial paralysis, paresis, and arked degree of loss of sensation (anæsthesia) of his right thigh and right arm; immediately after he had stopped the drain upon his vital forces by healing the rs a metastasis or translation occurred and set up an irritation of his lungs, which ation rapidly developed into consumption, of which he died February 16, 1881; that e was no other reasonable cause for his rapid decline; that in the light of his close constant observation of the case it is his firm belief that the gunshot wound was remote cause of the soldier's death. The wound and loss of blood, subsequent le amputation, double loss of blood, long confinement in hospital, the wasting paresis or partial loss of motion, the long-continued ulceration and suppuration e stump, one disease and disability following another until his constitution was ed and his vital powers gave way, and when he had stopped the drain upon his m by healing the ulcers the current accustomed to flow through the ulcerated p was dammed up and thrown by metastasis to the lungs and rapidly developed he symptoms of phthisis pulmonalis, of which he died.

t is doubtless true that this soldier died of consumption. Is it not ally true that this fatal disease was caused by the terrible wound he eived at the battle of Cedar Creek, Virginia? This brave soldier t a widow and three minor children dependent upon the cold chari- s of the world for their subsistence.

Your committee deeming this a case of great merit unhesitatingly ommend the passage of the bill.

k CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 680.

# GEORGE W. SMITH.

UARY 24, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

MORRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 5254.]

*Committee on Invalid Pensions, to whom was referred the bill (H. R. 254) to increase the pension of George W. Smith, submit the following port:*

/e find that claimant enlisted August 9, 1862, in Company F, For-
h Regiment, Iowa Volunteers, and was discharged on surgeon's cer-
ate of disability October 2, 1863. That in April, 1879, he applied
a pension, alleging rheumatism and sunstroke. The claim for the
ıer disease was allowed and the latter rejected on the ground of no
ırd and no medical evidence, &c. The certificate of disability for
harge reads:

ıonic diarrhea with extreme emaciation and debility, contracted in the service
ın the line of duty. Has also incipient phthisis, which is hereditary; unfit for
lid corps.

ome ten witnesses of good report testify that claimant was a strong,
ıst, able-bodied farmer when he enlisted.
éorge W. Mosher testifies that he was with claimant in June, 1863,
ın he contracted his disabilities of sunstroke, rheumatism, and diar-
ı; that he was with him in hospital and saw him treated for same.
harles Harlow, another comrade, testifies to the same, and also adds
he was prostrated by the heat and had to be hauled to camp, and
the effects continued till his discharge.
nomas Forsyth says he saw him at discharge, and he was then so
bled that he could only walk with crutches.
laimant testifies that his family physician, Dr. Scott, is now dead.
. M. Crosier testifies that from discharge until 1883 he was disabled
ı manual labor a large part of the time.
amuel A. Haunth testifies to the same, and says claimant said when
harged that his disability was the result of sunstroke.
aten Smith says about two years after discharge he was at claimant's
ıe when he had a very severe attack from the effects of being out in
sun, arising from the effects of the sunstroke. He further says that
knows positively that claimant was suffering from what the doctors
ed rheumatism and sunstroke.
everal others testify to his condition at discharge and the continu-
e of the disability.

The examining board at Atchison, Kans., report, February 2

Eyes have a sunken appearance on inspection; surrounding tissue lax; sma
of granulation in right eye; tongue flabby and broad, protruded in right
coated; slight general muscular tremors, especially noticeable in extremitie
œdema of both ankles; all other joints, *i. e.*, larger joints of extremities not
but tender to the touch and by motion; walks with a cane and with difficult
sort of dragging of both legs, a little more perhaps with the right, and do
could walk with any degree of ease without the cane; heart normal except i
is feeble and irritable.

He is now receiving a pension for rheumatism. His other an
serious disabilities seem as clearly traceable to the service as th
ease.

Your committee recommend the passage of the bill, with an
ment, striking out the word "twenty-four," in line 6, and inserti
word "sixteen."

CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 681.

# HUGH O'NEIL.

FEBRUARY 24, 1886.—Laid on the table and ordered to be printed.

MORRILL, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 5312.]

*Committee on Invalid Pensions, to whom was referred the bill (H. R. 12) granting arrears of pensions to Hugh O'Neil, submit the following ort:*

e find that at the second session of the Forty-eighth Congress a was passed placing claimant on the pension-roll. This bill asks arrears be paid him from the date of his son's death. Congress niformly refused to consider favorably this class of bills. No evi- is offered in this case to show that it should be an exception to eneral rule.

ur committee would therefore report adversely, and ask that the e on the table.

H CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 682.

# CARTER W. TILLER.

RUARY 24, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

. TAULBEE, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4002.]

*Committee on Invalid Pensions, to whom was referred the bill (H. R. 002) granting a pension to Carter W. Tiller, having carefully considred same, submit the following report:*

George W. Tiller enlisted as private in Company A, Twenty-eighth ntucky Volunteer Infantry, October 8, 1861; was captured while in e of duty near Bridgeport, Ala.; was confined at Andersonville, Ga., ere he died July 21, 1864. He was sound at enlistment and capture, d is shown by records of War Department to have died of diarrhea. never was married. His mother died in February, 1864. The claim- and beneficiary of this bill is his father, who filed claim for pension dependent father December 31, 1877, which was rejected August 19, 9, "on the ground that claimant was not dependent on the soldier, as has supported himself by the income from his occupation since prior the soldier's death."

Claimant is shown by the record to have been a very poor man ever ce prior to the enlistment of his son, and never at any time since his n's enlistment to have owned more than $250 in property or other ng; that he was dependent on his son for support at enlistment, and at his said son did contribute to his father's support prior to enlistent and during his service in the Army. The father is also shown to ve been a cripple and unable to perform manual labor since 1864, and now more than 65 years old and in very destitute circumstances, and uld doubtless have been driven to seeking aid from charity but for fact that on account of his high character as a man, and the esteem which he was held by the city authorities of Louisville, Ky., he was en a position on the police force of that city, by which he has been e to make for himself a bare support. He is now old and badly icted, and your committee think it is the duty of Congress to place name on the pension-roll.

Your committee therefore recommend the passage of the bill.

ONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
Session. } { No. 683.

# MARGARET E. COCHRAN.

RY 24, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

ULBEE, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. No. 908.]

*mmittee on Invalid Pensions, to whom was referred the bill (H. R. granting a pension to Margaret E. Cochran, having examined and dered the same, submit the following report:*

nas B. Cochran enlisted September 9, 1861, as lieutenant-colonel ond Regiment Kentucky Cavalry, and was at the time robust, and healthy, free from any disease, and while in the said service ne of duty he contracted chronic diarrhea, on account of which discharged from the service on medical certificate of disability ber 24, 1862. He died on January 21, 1873, and left claimant, ret E. Cochran, his widow, surviving him, who filed claim for n January 19, 1880, which was rejected December 14, 1881, on und that the fatal disease, "facial erysipelas," was not the result disease contracted in the service of the United States.

nant was treated during his last illness by James M. Holloway, one of the most eminent and reliable physicians in Kentucky, pears to have issued the burial certificate of said soldier. He s as follows:

surgeon in the Army during the war; was intimately acquainted with soldier winter of 1865 until his death. He died either January 21 or 22, 1873. This egan January 14, 1873; the immediate cause of death was facial erysipelas; l him in 1869 for carbuncle over the shoulder blade, and in 1868 operated on anal fistula and hemorrhoids; from the winter of 1866 until his death he was ly under affiant's care on account of chronic diarrhea contracted during the ow that this was a camp diarrhea, because he became familiar with that dia- ile acting as surgeon in the Army; there was ulceration of the large and small s, and a constant indigestion. Under judicious treatment, and a rigid diet, at the springs, under the influence of astringent and tonic waters, his diar- l general health would improve, but he was never thoroughly well, never en- e from the diarrhea; this chronic disease influenced attacks of supervening s, made him less resistant of malarial influences, induced the carbuncle, caused l fistula, also the hemorrhoids, and was the predisposing cause of the ery- hat killed him. Facial erysipelas, which was the direct cause of death, was ic in contradistinction to traumatic. Correct burial certificate as follows: ic or camp diarrhea contracted during the war, facial erysipelas supervening."

And further that—

Facial erysipelas of the mild type, such as attacked the above named, is, in my experience, almost uniformly recovered from, unless influenced by excess, prolonged exposure in bad weather, or pre-existing chronic disease.

This opinion and statement of facts are concurred in and corroborated by Drs. George W. Griffiths, Robert B. Winlock, and Otho Miller.

Your committee are of opinion that the said soldier died of disease superinduced by chronic diarrhea which he contracted in the service of the United States. They therefore recommend the passage of the bill.

O

ɜ CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
st Session. } { No. 684.

# HENRIETTA FISHER.

RUARY 24, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

TAULBEE, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 3954.]

*Committee on Invalid Pensions, to whom was referred the bill (H. R. )54) granting a pension to Henrietta Fisher, having considered the same, bmit the following report:*

'e do not consider it necessary to elaborate the report beyond the wing decision of the Pension Office in this case, which we give en- to wit:

ficate 153354. Henrietta Fisher, widow of Thaddeus Fisher, Co. B., 4th U. S. C. T.

e soldier was a pensioner on account of amputation of the right thigh from a gun-wound received at Petersburg, Va., June 15, 1864, and died September 26, 1870. cause of death is shown by the statement of Dr. S. D. Gross, as follows: "Died r my care, of hemorrhage, consequent upon an operation performed upon him for ɔure of aneurism of a stump of the right thigh, amputated, as I am informed, ıg the late war on account of a gunshot injury."

e widow was pensioned and continued to draw her pension until September 4, when payment thereof was suspended pending an investigation of the merits of ɔase in common with all Philadelphia claims. During this investigation Dr. s made the following statement before Special Examiner Sprague: "That he ırmed an operation upon the stump of one of his (Fisher's) thighs at the Jeffer- Medical College some years ago on account of an aneurismal state of the main y and vein of said stump, and that he attended said Fisher up to the time of his ı, about ten days after said operation. He does not believe that the affection of essels for which he performed the operation in question had any connection or dependency upon the gunshot injury for the relief of which the limb was am- ɜed."

on this statement the widow's name was dropped, on the ground that the soldier's ı was not chargeable to his military service.

on appeal to the honorable Secretary of the Interior, this action was affirmed h 25, 1878, and again June 15, 1880.

e medical referee, under date of May 9, 1882, questioned the correctness of the n of the office upon the mere opinion of the doctor, and expressed the opinion the chances are that the aneurism on which Dr. Gross operated was an outgrowth e amputation. In a subsequent opinion, that office states that unless the opinion :. Gross, who is authority upon surgical questions, can be set aside, the action of ping the widow's name from the rolls must be adhered to.

. Gross is dead; his conflicting statements cannot now be reconciled. The fact ins the same; the soldier died because of an operation performed on an ampu- l limb. Would the artery and vein at the point of the operation have become rismal but for the amputation of the limb, necessitated by the wound received ıe of duty?

ere must have been cause for this diseased condition, and no other element is rent. How can the opinion of Dr. Gross be overcome? It is not at all probable

that it could be done; at least a professional mind could not be satisfied on that by lay testimony, in particular such as could be expected in the case of a c claimant.

Yet the case appears meritorious upon its face.

The case having been settled by the Department, the office is estopped from t action except upon the filing of new and material evidence.

Respectfully submitted.

April 4, 1885.

A. VANGEUI

The foregoing statement was prepared at my request, and I concur in the therein expressed.

N. P. LOVERIDGE

Q. 1

Your committee recommend the passage of the bill.

C

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 685.

# HENRY S. COHN.

EBRUARY 24, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

r. TAULBEE, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 5881.]

*ae Committee on Invalid Pensions, to whom was referred the bill (H. R. 909) granting a pension to Henry S. Cohn, having considered the same, submit the following report and substitute herewith :*

Henry S. Cohn is now on the pension-roll as first sergeant of Com- ny G, One hundred and sixth Ohio Volunteer Infantry, and the ject of the substitute herewith reported is to place him on the pension- l as lieutenant of Company C, One hundred and sixth Ohio Volun- r Infantry.

Henry S. Cohn enlisted as a member of the Ohio La Fayette Guards in 1, he at the time being only fifteen years of age, and continued therein about four months, participating in the first Bull Run fight, when was mustered out of service on account of expiration of term of service. then enlisted in Fifth Virginia Regiment, and was appointed drum- jor. Was honorably discharged therefrom in August, 1862, and at ce joined the One hundred and sixth Ohio Volunteer Infantry, and at e organization thereof was appointed first sergeant of Company G, en at the age of eighteen years, and served in that capacity until ecember, 1862.

When at the battle of Hartsville, Tenn., his captain was killed, and e first and second lieutenants both mortally wounded, he took com- and of his company during the battle, and although his comrades were ing killed at a fearful rate, this gallant young soldier led his company to the hottest of the battle until a bullet prostrated him, inflicting severe wound, from which he has never recovered and for which he now drawing pension. During this battle his entire brigade was ptured and carried away as prisoners, leaving him with his killed and unded comrades on the bloody field, when the surgeons of the Con- lerate army came on the field and carried him, with other wounded diers, to Church Hospital, where he lingered for many months, until sufficiently recovered to be removed to Camp Denison, Ohio, where rejoined his command, and, although his wounds had not healed, but re constantly troubling him, he was transferred to Company C, One ndred and sixth Ohio Regiment, and was by regimental orders ap- nted lieutenant of said company, and served in that capacity from bruary until 22d day of May, 1863, when he was discharged on ac- unt of disability, resulting from his wounds.

Your committee believe he is entitled to be rated as a lieutenant on pension-roll and therefore recommend that the original bill lie on table, and report a substitute herewith and recommend its passage.

O

'H CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
1st Session. } { No. 686.

# SARAH ANN MURPHY.

RUARY 24, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

TAULBEE, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 5882.]

*Committee on Invalid Pensions, to whom was referred the petition of 'arah Ann Murphy, having considered the same, submit the following eport:*

ames Murphy enlisted as a private in Company K, Twentieth Regi-
nt Kentucky Volunteers, on November 21, 1861, and was killed in
tle with the enemy October 20, 1863, at Philadelphia, Tenn. His
ow, Sarah Ann Murphy, applied for pension June 28, 1880, which
s rejected June 28, 1883, on the ground that said soldier was at the
e he was killed absent from his own company and regiment without
ve, and was acting with and fighting in Company K, First Kentucky
giment.
aid soldier seems to have been at home on furlough, and on his way
oin his command he fell in with said last-named company and regi-
nt, and was trying to find his own command, but before he could
ertain the whereabouts of the Twentieth Kentucky Regiment the
l First Kentucky Regiment had an engagement with Confederates,
which said soldier participated and was killed.
our committee recommend the passage of the bill herewith reported.

O

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 687.

# JOHN PENNINGTON.

BRUARY 24, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

r. TAULBEE, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 3982.]

*e Committee on Invalid Pensions, to whom was referred the bill (H. R. 3982) granting a pension to John Pennington, having carefully considered the case submit the following report:*

John Pennington enlisted in Company A, Twenty-fourth Regiment ntucky Volunteers, on November 21, 1861, and was discharged there-m May 9, 1862, by military board of Kentucky, and re-enlisted as tain in Company A, Forty-seventh Regiment Kentucky Volunteers, October 5, 1863, and was discharged therefrom December 26, 1864. He filed claim for pension on June 4, 1879, based on disease of lungs ulting from cold, and disease of lungs and cough and pain in breast, l varicose veins and disease of both legs, resulting from service l exposure and typhoid fever contracted while in service and in line duty. His claim was rejected on the ground that claimant was not service of the United States when he incurred disability for which claimed pension, as shown by the Adjutant-General.

This decision seems to be based on the fact that he was never mus-ed into the service of the United States during his first service afore-d, and during which time he seems to have had an attack of fever ich rendered him unfit for military duty at time of his first discharge, t from which disability he recovered.

He is shown to be perfectly sound and free from disease at time of enlistment, and the fact is well established that he was sound at e of his second enlistment.

He served as captain of Company A, Forty-seventh Kentucky Vol-teers, in the service of the United States, from October 5, 1863, to cember 26, 1864, during which time he incurred the diseases from ich he has suffered ever since his discharge. While it is not alto-her improbable that his present state of health may be in some re-te way connected with his first service, your committee find from the dence that his last service was unquestionably the immediate and ect cause of his present enfeebled condition and broken health. If re was any room for doubt on this subject your committee believe long, faithful, and honorable service for his country would entitle n to the benefit of the doubt.

Your committee are of opinion that the adverse ruling of the Pension Office in this case is the result of a conspiracy between the political enemies of the claimant, to which the special examiner of the Pension Office became a willing instrument, and that the greatest injustice has been done one of the nation's most gallant defenders.

Your committee believe the case is one of great merit; they therefore recommend the passage of the bill, with the following amendment: Strike out all after the word "late" in sixth line, and insert in lieu thereof the words "captain of Company A, Forty-seventh Regiment Kentucky Volunteers."

C

ɔNGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
ɛssion. } { No. 688.

# JOHN L. HUNTER.

r 24, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

IANS, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 2797.]

*mittee on Invalid Pensions, to whom was referred the bill (H. R. granting a pension to John L. Hunter, have had the same under eration, and beg leave to submit the following report:*

ɔr filed an application for pension August 9, 1876, setting forth y from partial loss of sight while serving as private in Company Minnesota Mounted Rangers. His claim has been rejected on nd that the disability existed prior to his enlistment.

eful examination of the files of the Pension Office disclose the g facts:

ɔr enlisted October 18, 1862, and was discharged March 21, Fort Snelling, Minn., on surgeon's certificate of disability, setting ıt soldier is suffering from rubeola and parotitis, inversion of and partial opacity of cornea, all combined with great degree debility. In addition to the foregoing description of the dis- ɔy the surgeon the captain of the company states upon said cer- ;hat the soldier's eyes were weak at time of enlistment; other- was strong and healthy. He further adds: Weakness of eyes ɔy being in the dust for past five days; took severe cold from blankets and proper bedding, which resulted in almost total ıs and general debility.

ecords of the Surgeon-General's Office show that Hunter was l to Fort Snelling post hospital December 21, 1862, with rube- remained under treatment until March, 1863.

nber of reliable persons, including the family physician of the ɔrior to the war, testify to his soundness and freedom from dis- eyes at date of his enlistment. A continuous disability from lischarge to present time is clearly shown.

xamining surgeon finds chronic inflammation of both eyes and ı partial paralysis of the lids, with watery discharge from both, ıs of cataract of right eye. Rate of disability total. During a ıpecial examination nine witnesses of general good reputation ı the most positive terms that claimant was sound in every par- ɔefore and at time of his enlistment, while four witnesses testify ;heir opinion his eyes were weak before his service.

y be true that claimant's eyes were not as strong as some per- es, yet there is nothing to show that prior to his enlistment he

was in any way disqualified for the performance of manual labor, or sequent to enlistment for the performance of military duty until exposure to dust, cold, and measles, either of which can reasonab charged with the claimant's present condition, in particular the l

That exposure in the military service has resulted in claimant's ent disability cannot be doubted upon the showing made in the ca

Your committee are clearly of opinion that the case is meritorious that the relief asked for should be granted, and therefore report fa bly on the bill and ask that it do pass.

O

[illegible] CONGRESS, [illegible]st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 689.

# GEORGE WELLS.

[illegible]RUARY 24, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

WINANS, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 2791.]

*[illegible] Committee on Invalid Pensions, to whom was referred the bill (H. R. [illegible]791) granting an increase of pension to George Wells, have had the same [illegible]nder consideration and beg leave to submit the following report:*

[illegible]eorge Wells enlisted in Company I, One hundred and ninth New [illegible]k Volunteers July 10, 1863, and was discharged on surgeon's certifi[illegible] of disability December 23, 1864, by reason of "phthisis pulmo[illegible]is," induced by exposure in the service. He was granted a pension [illegible]isease of lungs at $6 from date of discharge; $8 from December 24, [illegible]; $10 from April 12, 1876, and at $12 from August 10, 1877, the rate [illegible] paid upon his certificate.

[illegible]nder date of July 27, 1877, he alleges, in additien to disease of lungs, [illegible]ial paralysis of right side, caused by the same exposure which re[illegible]ed in disease of lungs.

[illegible]n support of this claim for additional pension, we find among the files [illegible]he Pension Office the affidavit of Dr. Heath, setting forth that upon [illegible] return home in December, 1864, claimant suffered from disease of [illegible]gs and partial paralysis, for which affiant rendered treatment during [illegible]ollowing winter and spring and at different times since.

[illegible]ary Ripenback, a professional nurse, testifies to claimant's condi[illegible]n at date of discharge substantially the same as Dr. Heath, and [illegible]es that she advised the use of electricity for the paralysis, and [illegible] it was used, but without effect.

[illegible]r. S. A. Sheldon also testifies to treatment for partial paralysis since [illegible].

[illegible]he captain of the company testifies that at the battle of the Wilder[illegible]s claimant became overheated, and subsequently took cold and was [illegible]t to the hospital.

[illegible]he credibility of the witnesses above referred to is not questioned.

[illegible]he records of the Surgeon-General show that claimant was admitted [illegible] Stanton General Hospital, Washington, D. C., May 13, 1864, from [illegible] field with rheumatism, transferred to Mower's General Hospital, [illegible]iladelphia, May 18, 1864, where treated for rheumatism until June [illegible]1864, when sent to Davis Island General Hospital with chronic [illegible]umatism. Admitted to Rochester, N. Y., General Hospital June 7, [illegible]64, for chronic diarrhea, and returned to duty August 9, 1864. Again [illegible]itted to field hospital with fever, and treated for same and phthisic

from August 27, 1864, to September 19 following. Transferred to Emery General Hospital, District of Columbia, with debility, and treated until discharge as aforesaid.

Every medical examination in the case shows the existence of partial paralysis in a pensionable degree.

The claim for increase on account of this disability has been rejected by the Pension Office, on the ground that it is not legally established as an independent cause for pension, and that it cannot be held as resulting from disease of lungs, the disability for which pension has been granted.

Your committee are of the opinion that the record and other evidence in this case show clearly that claimant was free from partial paralysis of right side at time of his enlistment; that he served faithfully eleven months before disabled from any cause; that immediately following the great exposure of the troops in the Wilderness campaign he came under medical treatment for rheumatism as diagnosed by the surgeon, and continued under treatment for other disabilities, all reasonably chargeable to the exposure of said campaign, until discharged.

It is further shown that the partial paralysis existed at date of his return from the service, and that he has been suffering therefrom ever since.

The record of rheumatism, chronic rheumatism, chronic diarrhea, and general debility, during the last six months of claimant's service, is, in the opinion of your committee, a sufficient explanation of the partial paralysis shown to have existed at date of discharge and ever since.

Believing that the relief asked for should be granted, we return the bill with the recommendation for its favorable consideration.

○

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 690.

# CLAYTON E. ROGERS.

FEBRUARY 24, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WINANS, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 2804.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2804) granting a pension to Clayton E. Rogers, have had the same under consideration, and beg leave to submit the following report:*

Clayton E. Rogers claims pension on account of loss of ring finger of right hand, the result of erysipelas contracted while in the military service. His claim has been rejected by the Pension Office on the ground that the evidence fails to show that the alleged disability originated in the service and line of duty.

Your committee have carefully examined the papers filed in support of the claim and find the following facts:

Rogers enlisted July 16, 1861, in Company I, Sixth Wisconsin Volunteers, and served until November 1, 1861, when he was promoted to second lieutenant of said company. A month later he was promoted to first lieutenant, in which capacity he served until July 14, 1863, when he was compelled to resign on account of serious sickness in his family. On March 6, 1865, he again entered the service as captain of Company B, Fiftieth Wisconsin Volunteers, and served until January 4, 1866, when mustered out. He served gallantly upon many fields of battle, including those of Gainesville, Bull Run, Antietam, and Gettysburg, his command belonging to the "Old Iron Brigade."

Under date of November 1, 1865, he was detached from his command and placed upon court-martial duty at Saint Louis, Mo. While on said duty he contracted a slight sore on the ring finger of the right hand. About that time he was subpœnaed as a witness in a murder case, then on trial at his home in Wisconsin. While obeying the order of the court, from some cause, probably from cold, erysipelas set in the then slight sore on said finger, and upon his return to Saint Louis, about December 26, 1865, it became necessary to amputate the finger at the upper joint. Subsequently it became necessary to amputate the remaining joints.

These facts are fully proven by record and other evidence. The claimant is a man of the highest character, and his witnesses are likewise reputable.

The rejection of the claim was based entirely upon the unsworn statements of one Dr. Gage, of Sparta, Wis., who treated the claimant fo erysipelas while at home as a witness as aforesaid; that he at time of

I CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
rt Session. } { No. 691.

# BRUNER D. HYATT.

RUARY 24, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

. WINANS, from the Committee on Invalid Pensions, submitted the following

## REPORT.

[To accompany bill H. R. 2798.]

*Committee on Invalid Pensions, to whom was referred the bill (H. R. 798) granting a pension to Bruner D. Hyatt, have had the same under nsideration, and beg leave to submit the following report:*

laimant enlisted October 3, 1861, as private in Company A, Twelfth sconsin Volunteers, and was discharged May 29, 1862, upon surgeon's tificate of disability, setting forth that soldier is incapacitated for performance of military duty since February 10, 1862, by reason of lepsy.

Iis claim for pension on account of epilepsy has been rejected by the nsion Office, on the ground that the alleged disability existed prior his enlistment.

'his action seems to be based entirely upon the statements of one us F. Corvell, made before a special examiner of said office, to the ct that about July, 1855, he had claimant employed as a carpenter erecting a building at Lewistown, Minn; that while thus employed found claimant one day after dinner setting against a tree with ched arms and drawn-up legs, apparently unconscious.

hat it was affiant's opinion that claimant was then suffering from epileptic fit, but cannot now state whether his face was purple, ther he frothed at the mouth, whether his hands were cold, or ther he exhibited any other signs usually attending an attack of eptic fit. Claimant recovered from this attack in about five minutes. rd him say it was caused by the heat. Affiant kept up his acquaint- s with the claimant until the latter's enlistment, and never knew to suffer from any similar attack as that above described.

n support of the claim we find ample proof of prior soundness, not r among the evidence filed by the claimant, but also in the testimony large number of credible witnesses taken by the special examiner. Dr. O. F. Manson, late captain in claimant's regiment, a person of loubted veracity, testifies that claimant's disability originated in the vice under the following circumstances: While in camp at Madison, s., in winter of 1861, prior to the march southward, the command s short of tents, in consequence of which the men were much crowded. the center of the tents an excavation was made in the ground and ered with sheet iron and stove pipes attached thereto for draft. e weather was very cold, necessitating the production of great heat

but are of the impression that he suffered from some trouble of
or chest.

The surgeons who treated claimant in the service are dead.

The continuance of the disability since date of discharge is
shown by both lay and medical evidence, including examining su
reports.

Claimant, whose reputation for truth is reputed good by the
examiner, states under oath that the attack from which he suf
1855, as described by Corvell was simply a cramping spell, cau
the use of too much water during that day and the eating of gr
cumbers for dinner.

Your committee are clearly of opinion that claimant was a sou
able-bodied man at time of his enlistment; that from exposure
and drafts he contracted an affection of the nerves, which by subs
exposure resulted in epileptic fits, from which he has suffered in
sionable degree ever since discharge, and therefore report favora
the bill under consideration, and ask that it do pass.

C

I CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
it Session. } { No. 692.

# SARAH A. LOVELL.

UARY 24, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

WINANS, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 2802.]

*Committee on Invalid Pensions, to whom was referred the bill (H. R. 02) granting a pension to Sarah A. Lovell, have had the same under sideration, and beg leave to submit the following report:*

e claim of Sarah A. Lovell as the dependent mother of Richard B. ll, late private of Company F, First Wisconsin Volunteers, was re- d by the Pension Office on the ground that she was not dependent the soldier at time of his death.

e find from an examination of the papers in the case that Richard ovell enlisted in the command aforesaid August 29, 1861, and was l in battle at Perryville, Ky., October 8, 1862. It appears from etters written to his parents while in service that at different times rwarded money to them for their use and benefit. By the report e special examiner it is shown that the soldier came to Pierce ty, Wisconsin, in company with the rest of the family, some years e the war. The father rented a small place, while the son, together his brother Francis, took up 160 acres of land, which they com- ed improving.

the time of the son's enlistment, claimant and her husband lived their sons upon the place then under improvement. Prior to the er's death he conveyed his half interest in the place to his father, laimant's husband, in order that they should have a home should hing happen him while in the service of his country. Francis ll likewise sold his interest in the place to the father, receiving as nsideration a few head of cattle. Claimant and her husband re- ed on the place until 1878, when 120 acres thereof were sold for , and the remaining 40 acres were deeded to the claimant, and upon h she resides jointly with another son.

aimant's husband at time of the son's enlistment and up to date of eath, which occurred in 1881, was a sufferer from disease of heart, n consequence thereof disqualified for the performance of manual much of the time. The claimant, now over seventy-five years of has, through her industry helped much towards the support of the y. Her infirmities prevent her from further efforts in that direction. only income is that derived from a share of the products raised on ittle place, not exceeding $100 a year, out of which taxes and other ssary expenses, aside from subsistence, must be met. She has given

to her country a son, who, by his noble deed, gave her a home, and who, had he been spared, would not fail to provide further for the wants of his mother in her fast declining days.

Your committee are of opinion that it is clearly shown that the soldier aided very materially in the support of the claimant, and that it was due to his generosity that claimant after his death, and while yet in vigor of life, was enabled to live a comparatively comfortable life. Her present age, however, together with the entirely inadequate income derived by her, suggest to your committee the justness of her request for aid, and therefore report favorably on the bill under consideration, and ask that it do pass.

O

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 693.

# JOEL D. MONROE.

BRUARY 24, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

C. WINANS, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4058.]

*he Committee on Invalid Pensions, to whom was referred the bill (H. R. 4058) for the relief of Joel D. Monroe, submit the following report:*

That Joel D. Monroe enlisted as private August 29, 1864, in Company One hundred and eleventh Regiment New York Volunteer Infantry, d was promoted to sergeant, and discharged with said company June 1865.

He claims in his application for pension that at Stony Creek, Va., December, 1864, while in line of duty, he was injured on the head by alling tree, which resulted in injury to his eyes; and also at Petersrg, Va., in the winter of 1865, he contracted rheumatism, which has ntinued ever since, and disables him from labor. The claim was rected on the ground of inability to furnish satisfactory evidence that sability originated in service and in line of duty. This case was given special examination, and from the testimony taken the examiner said: I am inclined to believe that the claim for diseased eyes is without erit, but that his claim for rheumatism is meritorious."

After a thorough examination of the evidence in the case your committee ve no doubt that this soldier was sound at the time of his enlistment, r that he was injured by a falling tree while constructing breastworks, t that said injury resulted in defective eyes is not clearly shown, but at he is and has been a constant sufferer from rheumatism contracted the service we think is clearly established.

David A. Taylor, his captain, testifies to the injury by falling tree ile constructing defensive works, and that immediately after, while ering from said injury, he was exposed in a severe storm of snow and n by which he contracted rheumatism, which is shown to have been ntinuous by a large number of witnesses since his discharge.

Dr. McKinney says he treated him from August, 1869, to January, 74, for sciatic rheumatism, and again from 1880 to present time for me trouble. The board of pension examiners, consisting of three ysicians, examined claimant January 5, 1885, and report that there tenderness over sciatic nerve, also evidence of sciatic rheumatism, s heart is irregular in action and his pulse 90; poor physical condion; we rate his disability seven-eighths of total.

From all the evidence in the case we think it is very probable that e disability was incurred in the service, and has not been aggravated r *prolonged by vicious* habits. We recommend the passage of the bill.

O

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 694.

# HARRIET M. LARRABEE.

BRUARY 24, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

r. HAYNES, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4516.]

*he Committee on Invalid Pensions, to whom was referred the bill (H. R. 4516) granting a pension to Harriet M. Larrabee, submit the following report:*

Harriet M. Larrabee claims as the widow of Loring H. Larrabee, who listed July 15, 1861, as a private in the Sixth Maine Regiment, was scharged July 15, 1864, and died October 5, 1865. Her claim was jected upon the ground that soldier's fatal disease—malarial typhoid ver—originated after discharge. The deductions of the medical re-wer, approved by the medical referee, are as follows:

f typhoid fever had followed immediately upon the discharge of the soldier we uld have been able to admit death cause as due to service, but occurring, as it did, een months subsequent thereto, we cannot admit it to the exclusion of other causes incident to service of soldier.

It seems to be fully established in the evidence that he entered the rvice a well man; that in the Chickahominy Swamp, in the early mmer of 1862, he contracted chronic diarrhea, and also chills and ver, and had varicocele, and was sent to hospital at Hampton, Va.; t owing to his disabilities he was transferred to the Invalid Corps, l remained on duty at the Hampton hospitals until his discharge; t he had chills up to and after his discharge, and died of malarial hoid fever.

. A. Thompson, M. D., testifies:

was called in consultation on or about the 2d day of October, 1865. He had typhoid er, of malarial type, caused, as I then supposed, by exposure while in the United tes service.

H. C. Baxter, M. D., attended him for—

Malarial typhoid fever from 11th September, 1865, to October 5, 1865, the day of his ease, which, as I then supposed, was caused by exposure to malaria, in connection th typhoid fever, which followed, and greatly aggravated the condition of the pa-nt.

The rejection of the widow's claim appears to be based upon an ele-nt piece of hair-splitting. We fail to see where the claim lacks in any the essentials, and recommend the passage of the bill.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 695.

# ZEBA S. AYER.

FEBRUARY 24, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. HAYNES, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 5277.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 5277) granting a pension to Zeba S. Ayer, submit the following report:*

Zeba A. Ayer enlisted in Company A, Twenty-ninth Maine Infantry, August 30, 1864, and was discharged March 30, 1865, on surgeon's certificate of disability, the disease being stated as phthisis pulmonalis, of four months' duration, and originating after entry into the service. He died August 11, 1865, of consumption.

The claim of his father, Zeba S. Ayer, was rejected on the ground of non-dependence at date of soldier's death, as shown by the assessment records.

These assessment records show that from 1859 to 1872 he was assessed upon a little over 100 acres of land, with a valuation ranging from $1,040 to $1,300. It was a rough, rocky farm, and the son, Zeba A., worked upon it, assisting his father until the time of his enlistment.

There is a great mass of evidence showing that from the time of his son's death and the loss of his assistance the father's little property has steadily disappeared, from his inability to support himself, and he is now in destitute circumstances. Since 1861 he has been suffering from a hernia which obliges him to wear a truss. He is also afflicted with asthma and its concomitant results, and utterly unfitted for manual labor, or for earning a subsistence.

It is a strong case, and there seems to have been some question in the Pension Office as to the propriety of its rejection.

We recommend the passage of the bill.

[ CONGRESS, } HOUSE OF REPRESENTATIVES. { REPORT
t Session. } { No. 696.

# DENNIS CARTY.

FEBRUARY 24, 1886.—Laid on the table and ordered to be printed.

HAYNES, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 3451.]

*Committee on Invalid Pensions, to whom was referred House bill* 3451, *submit the following report*:

is claim is entirely unsupported by evidence of incurrence or con-
nce of disability. In his application Carty alleges "injury to
knee and injury to left eye by being thrown from a forage wagon."
records of the War Department furnish no evidence of alleged
ies, and the Auburn, Me., board of examining surgeons reported,
mber 1, 1882, that they found no disability from the causes al-
l:

e appears perfectly normal; measurements same as fellow; no pain at present
eness; can discover no disease of eye. Has slight scar about one inch to the left,
little above the left eye, which is the only discoverable lesion or deformity.

ur committee report adversely upon the bill and recommend that
upon the table.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 697.

# EVELYN M. LOVEJOY.

FEBRUARY 24, 1886.—Laid on the table and ordered to be printed.

Mr. HAYNES, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4390.]

*The Committee on Invalid Pensions, to whom was referred House bill 4390, submit the following report:*

This bill directs the payment of a gross sum to Evelyn M. Lovejoy, as a rerating of the pension granted her husband, now deceased, who was a member of Company C, Ninth Vermont Regiment. The Commissioner of Pensions has full powers for correcting errors in rating, and this committee has uniformly refused to interfere in cases of this character.

Your committee therefore report the bill back to the House with a recommendation that it lie upon the table.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 698.

# JAMES CARROLL.

FEBRUARY 24, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. O'HARA, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4642.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4642) granting a pension to James Carroll, have had the same under consideration, and submit the following report:*

This claimant, in his declaration, alleges that in Watauga County, North Carolina, he received gunshot wounds of right hip and side, while in the service and in line of duty, as a member of Company B, Third Regiment North Carolina Mounted Volunteers, securing recruits for the regiment.

Claimant enlisted about January 25, 1865, and in July or August of said year was discharged. He is unable to furnish the testimony of an officer, for the reason that he was recruited by one George W. Perkins for the regiment, and was wounded before he reached it; his officers therefore were not acquainted with the facts in the case.

On the muster-roll of Company B, George W. Perkins is reported as "absent on recruiting service from September, 1864, to February, 1865."

George W. Perkins, comrade, testifies that Capt. George W. Kirk, of Company B, Third North Carolina Mounted Volunteers, gave him orders to recruit men for the regiment; that he reached Watauga County, North Carolina, about January 15, 1865, and shortly afterwards claimant was enlisted and his descriptive list taken; that about January 25, 1865, he and claimant were at the house of William Triplett trying to recruit him; that while on their way from Triplett's house to the widow Carroll's, claimant's mother, they came upon a party of rebels, being part of the Watauga Home Guard, commanded by Lieut. Lewis Bryant; that said rebels fired upon them, wounding claimant in the right side and hip.

John Elrod testifies that he was a member of the Home Guard in the Confederate service under Lieut. W. L. Bryan, in Watauga County, North Carolina; that said command came upon George W. Perkins and claimant and fired several shots at them, wounding claimant severely; that he, affiant, carried claimant a half mile to his mother's house and dressed his wounds.

Dr. W. B. Council testifies that he examined claimant and finds that he received a gunshot wound in right breast, ball came out near middle of side, breaking one rib in two places, and injuring right lung; also gun-

shot wound in right thigh; ball entered the rear and thick part of thigh, coming out near center of thigh, causing paralysis of the whole leg.

J. H. Gilkey, examining surgeon, reports the disabilities permanent, and rates them to about one-half in the aggregate.

F. C. Griffin, the special examiner of the Pension Office, closes his report with the following language:

> As the case now stands I am compelled to submit it for rejection on the ground that there is no record evidence of this man being in the service. My sympathy is with the claimant; he has four large cicatrices on his person, indicating two very severe gunshot wounds. He is an illiterate man; bears a good reputation for credibility.

Your committee, when taking in consideration the fact that this regiment was doing service in a hostile country, that its records were never properly kept and duly filed, are of the opinion that claimant was wounded while in the service of the United States and in the line of duty, and therefore recommend the passage of the bill.

C

TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 699.

# MRS. BRIDGET SMITH.

BRUARY 24, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

. O'HARA, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4070.]

*Committee on Invalid Pensions, to whom was referred the bill (H. R. 70) for the relief of Mrs. Bridget Smith, mother of Patrick J. Smith, have d the same under consideration and submit the following favorable re-rt:*

e applicant, Mrs. Bridget Smith, is the mother of Patrick J. Smith, ased, late a private of Company H, Tenth Minnesota Volunteers, enlisted in said company and regiment on the 13th day of August, , was discharged on the 19th day of April, 1865, and died on the 16th of December, 1873. Applicant's claim rejected, on the ground that er died of pneumonia, which was not a result of gunshot wound of disease contracted in service.

atrick J. Smith, at the time of his death, was receiving a pension of er month for gunshot wound in forearm, received in action near ville, Tenn., December 16, 1864. The evidence tends to show that ier also suffered from weakness of lungs during the latter part of ervice in the Army and after his discharge therefrom.

wen Crosby testifies that he was well acquainted with claimant for y years and was familiar with means of support of family; that he s of his own knowledge that soldier was, prior to his enlistment in , a healthy, vigorous, able-bodied man; knows of his condition from harge to death; that he was unable to perform manual labor by on of gunshot wound of right forearm which resulted in entire loss and and arm. He also suffered from weakness of lungs, which finally ted in death; that soldier suffered most of the time from discharge eath from the wound and his diseased lungs, and that his mother dependent upon him for her support, she being a widow, and that soldier was never married.

this testimony he is corroborated by Patrick Burns, Michael Han- and Michael Crosby.

atrick Burns testifies that he has been acquainted with claimant with soldier during his life; that soldier was sound prior to his en- nent; that he knew soldier every year from his discharge in 1865 il his death in 1872; that by reason of a gun wound in right arm, lier suffered great pain; that from the time of his discharge in 1865 his death soldier suffered with pneumonia bronchitis; that a slight l would, at any time, increase his cough and lung disease and spit-

arm, received in the line of duty, for which soldier, up t
death, received a pension of $8 per month, it further disc
also suffered from lung trouble, which, in his last days, de
great severity, ultimately causing his death. It is furt
that his mother is a widow and quite poor, dependent on
during his life for a support.

Your committee think the soldier's death can easily be
hardship and exposure of camp life, and therefore rec
passage of the bill.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 700.

# WILLIAM L. McCALL.

FEBRUARY 24, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. O'HARA, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4632.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4632) granting a pension to William L. McCall, have had the same under consideration, and submit the following report:*

Applicant's claim is based on an alleged rupture in lower part of abdomen, caused from hard riding while in the service of the United States and in the line of duty.

Claimant states under oath that he was ruptured on both sides in January, 1865, from hard riding at Sevierville, Tenn.; was in no prior service; was captured by a party of rebels at Sevierville, Tenn., in January, 1865, and after being beaten with guns in the hands of the enemy, he was placed on a very lean horse, without saddle or bridle, and ran some 20 miles before he was released by Union soldiers. Thinks above causes produced the double rupture, which is worse on left side.

H. M. Hooper, late sergeant Company D, Ninth Tennessee Cavalry, deposes that about the last month of 1864, while the company was at Pontooman Springs, Tenn., applicant first complained of rupture, and was excused from duty; he refused to enter a hospital, and was treated by regimental surgeon in camp and cared for by his friends for a period, length of which is not recollected; was then taken to a private house in Tennessee, where he remained for some time before he rejoined his company; seemed to suffer considerably during remainder of his service; that he was acquainted with applicant several years before his enlistment, and, to the best of his knowledge and belief, applicant was a sound man, free from disease at enlistment.

William R. and Alfred M. Hooper, late privates of Company D, Ninth Tennessee Cavalry, testified substantially as above, and further, that they believe the rupture was caused by the applicant's falling into the hands of the rebels, who, it is said, placed him on a horse without saddle and ran him a distance of 20 miles before he was released, and that he complained of said rupture just after said release.

John H. and D. H. Matthews, comrades, late of Company D, Ninth Tennessee Cavalry, besides corroborating the foregoing witnesses, stated they often heard applicant begging to be excused from duty on account of rupture; that they knew claimant prior to and at the time of his enlistment, and that he was sound and healthy and free from rupture.

John Slater and D. V. Moody corroborate the other witnesses.

This claim was rejected upon the ground of no record, no medical evidence prior or since service, and claimant's declared inability to furnish same, or that of a commissioned officer who saw the hernia in the service.

The only record shows that claimant was absent sick May and June, 1865.

There is no conflict of lay testimony that applicant was a sound man prior to and at the time of his enlistment; that he was captured while in the line of duty and in the service of the United States, and that he suffered from the hands of the enemy such treatment as could have resulted in hernia as he alleged it did so result. There is, however, a wide difference in the medical testimony. E. D. S. Allen, examining surgeon, states:

> I do not find, on examination, any hernia existing in this case. There may have been a rupture, but no evidence of it is now seen.

Allen's report bears date 1880.

John A. Crisp, another examining surgeon, in report bearing date of April 19, 1882, stated:

> Applicant has rupture both sides of lower abdomen, which entitles him to one-half rating. His physical condition will not admit him to do any hard labor. I also find his eyes in a state of ulceration, with dimness of vision, the origin of which I cannot determine.

The finding of the latter examining surgeon being in harmony with the lay testimony, it is apparent that the former must have been mistaken.

As the preponderance of testimony is with the claimant, your committee, in view of all the facts, are of the opinion that claimant has a just and fair claim upon the Government for a pension, and recommend the passage of the bill.

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 701.

# MRS. MARY HASTINGS.

FEBRUARY 24, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. O'HARA, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 3198.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 3198) granting a pension to Mrs. Mary Hastings, have had the same under consideration, and submit the following report:*

Claimant, Mary Hastings, is the widow of Robert Hastings, late a private in Mike Gilbreath's company of scouts and guides. Her claim was rejected by the Pension Office on the ground that soldier was not in the military service of the United States at the time he received the alleged gunshot wound, as shown by the records of the War Department.

Josiah R. Gilbreath and John T. Armstrong, comrades of claimant's late husband, testify under oath that they were personally acquainted with the husband of the claimant, and served with him in Capt. M. M. Gilbreath's company Alabama scouts and guides. Josiah R. Gilbreath states that he was near the soldier when he was shot and heard the gun, and that said Robert Hastings was shot by Captain Green's company of rebel bushwhackers, or home guards, as they termed themselves; saw the company from where he was secreted just before hearing the firing, and saw the soldier soon after, and he was badly shot in the back. Affiant was intimately acquainted with him up to his death, and often heard it said that the gunshot wound he received would kill him. The soldier was with Capt. M. M. Gilbreath's company in the service of the United States in 1864 when wounded. After recovering sufficiently to go with the company (it being unsafe to remain at home) he again united with the company in the early part of 1865, and died some time after being discharged. Affiant Armstrong says he did not see the soldier for three weeks after receiving the wound, was near when he was shot, and saw Captain Green's rebel company who shot the soldier. The soldier was then in the service of the United States in Capt. M. M. Gilbreath's company, and sent out on the mountain at or near home as a spy, when Green's company came upon him. He died in 1865 or 1866, and was attended by Dr. Smith, who is dead, dying soon after of small-pox.

David L. Evans testifies that he was acquainted with the husband of the claimant, who was a member of Capt. M. M. Gilbreath's company of Alabama scouts and guides, in the service of the United States, until *May 15, 1865.* Affiant was also a member of said company, and had

a wound received in the service of the United States as
under Capt. Michael M. Gilbreath's command; this fact
questioned in this part of the State." He believes his w
to a pension.

The only roll of Capt. M. M. Gilbreath's company
scouts and guides (Alabama) on file in the Adjutant-Ge
an official copy of the roll filed in the office of the Second
Treasury, upon which payment was made to the membe
pany, under the provision of the act approved March 3,
roll shows that soldier's widow was paid for his servi
10, 1865, to May 15, 1865, when said company was disba
a hard task for one at a glance to see, feel, and appreciat
and privations endured by those heroic men, who, livin
hostile to the cause of the Union, exhibited such great
and patriotism by their devotion to the old flag. These
considered as hostile and inimical to the interests of t
and as dangerous to their cause, and thus situated, liv
dread of their anger and displeasure. That the com
claimant's husband served was recognized by the Gove
ing a special act for the payment of their services is evid
services were valuable and appreciated. The testimon
when taken in its entirety, clearly establishes the fact
husband was wounded in the line of duty and in the servic
States, and that his death was the result of said wound

Your committee therefore most cordially recommend
the bill, after striking out all after the word "six" in li

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 702.

# MARGARET KEARNS.

FEBRUARY 24, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PINDAR, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 1543.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 1543) granting a pension to Margaret Kearns, submit the following report:*

A bill for the granting of a pension to Margaret Kearns was introduced in the Forty-eighth Congress, was referred to the Committee on Invalid Pensions for their consideration, and was reported by Mr. Bagley, of that committee, which report truly presents the facts, as this committee believe, after thorough examination of the papers, which report is hereto annexed and made the report of this committee:

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2480) granting a pension to Margaret Kearns, having considered the same, beg leave to submit the following report:*

The petitioner is the mother of James Kearns, who was first sergeant, Company G, Ninety-fourth New York Volunteers.

Surgeon-General reports First Sergeant James Kearns, Company G, Ninety-fourth Regiment New York Infantry, was admitted to field hospital, third division, Fifth Army Corps, July 15, 1864, for treatment for gunshot wound of arm, fracture. Arm amputated on the field at shoulder-joint; soldier died July 20, 1864. Surgeon D. C. Chamberlain makes similar report. It is therefore evident that Kearns died five days after receiving wounds in the service. The place of death was Petersburg, Va.

The mother filed her application for pension May 28, 1868; her husband was then living, but it is shown that he was seriously disabled by rheumatism, although earning some money as a watchman. The Pension Office rejected the application on the ground that she was not dependent upon her son at his death.

The principal evidence to show the contrary is that of friends and neighbors, who, under oath, declare that they knew of the depending of the mother upon the son prior to enlistment.

Catherine Barry swears that she was an acquaintance of James Kearns from childhood, and that they associated together, and that up to and since the enlistment of James was a frequent visitor at the house of Kearns and familiar with their resources and means of living; that James made his home with his parents, and after he became old enough to work was steady and industrious, and worked regularly for the support of his father and mother, and that all of his wages, except such as he needed for his personal clothing, was used in support of his mother and the family. He was very prudent in his clothing, and spent but little of his wages for that purpose; it is also related that he was very affectionate towards his mother and was greatly attached to her, and always evinced a disposition to do all in his power to make her comfortable and happy.

Another witness says that James's wages went to the support of his mother and the family as regularly and uniformly as is common with the head of a family; that he was known to buy for his mother a shawl, shoes, and other clothing, and the same

for a younger sister, who was dependent in the family. Since the death of the son the family has had an insufficient and meager support from what the father earned as a watchman. The father died in 1875, and she has now no means except what she gets from her own labor and the help of the younger children. Several affidavits similar to the above are on file, made in 1870, all showing the petitioner's dependence upon the son. It is also in evidence that Kearns sent money several times to his mother while he was in the Army.

The committee are of the opinion that the fact of the mother's dependence is sufficiently shown to warrant the conclusion that in his death she lost her main support. Moreover, she is getting old, and is very needy. Believing that she has a good title to a pension, the passage of bill H. R. 2480 is recommended.

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TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 703.

# JOHN TAYLOR.

EBRUARY 24, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

r. PINDAR, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 3826.]

*he Committee on Invalid Pensions, to whom was referred the bill (H. R. 3826) for the relief of John Taylor, submit the following report:*

The applicant for pension is now receiving a pension of $12 per month y an act of Congress, approved May 4, 1882.

On the 5th day of November, 1884, he applied to the Department for n increase on account of disabilities incurred while in the service, and as rejected by the Department upon the certificate of the examining oard, made November 4, 1885, which is as follows.

Ball entered 2 inches below and behind the right angle of the mouth, injuring the erior maxilla and passing through the structure of the lower portion of the mouth, ing out an inch above and to the left of the pomum Adami; cicatrices are desed and adherent; there is considerable alilia, probably owing to the injury of nerves of the tongue; there is no external evidence of injury to the left shoulder, there is apparent slight loss of sensation of face and of left shoulder.

Examining Surgeon S. A. Lumly certifies to gunshot wound fracturing inferior xillary right jaw; ball entering lower border of the inferior maxillary, passing ards and emerging from left jaw below inferior maxillary, removing several molars causing partial paralysis of vocal organs and impairing speech; considerable n in cold weather; atrophied condition of left jaw; facial neuralgia; health imred; degrees of disability permanent.

Examining Surgeon George Kellog and others certify substantially last above, and add, that articulation is much impaired; that claim- at times is unable to speak; has difficulty in mastication. Claimant s his articulation was perfect before he was wounded; has loss of ver in left arm and hand; circulation slightly impaired, probably e to injury to filaments of cavical flexus.

The claimant claims an increase of disability on account of the inies received while in the service.

He has personally appeared before the committee, and it is evident at he is incapable of using his left arm so that he may earn his livelihood by manual labor; that he is also afflicted with a painful and emrrassing stammering of his speech, arising from the gunshot wound ove referred to.

From the evidence presented, and his personal appearance and exmination by the committee, the committee are of the opinion that laimant is entitled to a further rating than he already has, namely, 16 per month, and that the bill be amended by striking out the rords "twenty-four" in lines 7 and 8 and inserting instead thereof the word "sixteen."

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 704.

# AGNES RENZ.

FEBRUARY 24, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. PINDAR, from the Committee on Invalid Pensions, submitted the following

## REPORT:

[To accompany bill H. R. 4592.]

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 4592) granting a pension to Agnes Renz, submit the following report:*

Henry Renz, the husband of the claimant, enlisted July 18, 1862, and was discharged June 7, 1865. He was principal musician of Company B, One hundred and nineteenth Regiment New York Volunteers. During the battle of Buzzard Roost, Ga., on the 8th day of May, 1864, while doing duty as chief bugler he received a gunshot in the right shoulder, the ball entering in the shoulder and lodging in the right upper arm near the elbow, by reason of which he was unable to do any manual labor, and said wound was eventually the cause of paralyzation of the right side. His death resulted from encephalitis. He received up to his death a pension of $6 per month. The widow's claim was rejected on the ground that the soldier's fatal malady was not the result of his injury for which he was pensioned, nor of his military service.

Dr. Henry Reidel, who was the attendant physician of the soldier during his sickness, testifies that in the winter of 1873 he treated him for chronic cerebral disease (encephalitis); that soldier died March 9, 1875, of said brain disease, and that from the history of the gradual development of his brain trouble as given by his family, affiant has no doubt that it primarily originated with a severe musket bullet wound received during the war, on the 8th of May, 1864, near the spinal column in the right shoulder, and this wound is to be considered the starting point of his fatal malady.

Ernest Raupp and John C. Wenzenberger testify that they were acquainted with the soldier from 1867 to 1875; that he had received a bullet wound in the shoulder during the war and complained ever since of great pains in his shoulder, arm, and neck; that in 1868 he lost the use of his right arm and got entirely paralyzed in 1872, and that after this he lost his memory entirely up to his death, in 1875.

The records of the Jefferson Hospital at Jeffersonville, Ind., show that soldier was discharged from there March 24, 1865.

After a careful review of the evidence submitted, your committee are convinced that soldier died from the effects of gunshot wound, and recommend the passage of the bill.

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49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 705.

# FARAN & McLEAN.

FEBRUARY 24, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. WILLIAM WARNER, from the Committee on Claims, submitted the following

## REPORT:

[To accompany bill H. R. 1776.]

*The Committee on Claims, to whom was referred bill (H. R. 1776) for the relief of Faran & McLean, having considered the same, submit the following report:*

The parties named in the bill were in the year 1884, and continually since that time up to the present date, engaged in the business of printing and publishing in the city of Cincinnati.

In the spring of 1865 the said Faran & McLean filed an application in the office of the Commissioner of Internal Revenue for refunding taxes collected on printed "posters." The taxes were at that date assessed and collected under Decision 135 of the Office of Internal Revenue, dated July 30, 1864, under the title of "printed circulars," on which were levied a duty of 5 per cent., said circular being as follows:

TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,
*Washington, July* 30, 1864.

The act of June 30, under the ninety-fourth section, provides that on bill-heads printed, printed cards, and printed circulars, a duty of 5 per cent. shall be levied, assessed, and collected.

As the law is particular in enumerating these three different kinds or specimens of job printing, without reference to any other, the inference is clear that all articles of job printing not included under either the head of bill-heads, cards, or circulars, are exempt from tax.

Bill-heads can refer only to the printed headings used by merchants, manufacturers, and others in rendering accounts of goods or services, &c., and does not refer to printed headings of official or other letter paper.

Printed cards include cards of business and cards of civility, railway tickets and checks, tickets for theaters, concerts, exhibitions, shows, &c., whether printed on pasteboard, card board, card paper, or any other kind of paper.

Printed circulars include not only circulars intended to be sent through the mails, but also printed notices, programmes, posters, &c., whether circulated through the mail or by carriers, or posted upon the streets, highways, in stores, hotels, inns, or taverns, or in any other public place.

The application set forth that these taxes were erroneously assessed, and that the said "Decision 135," so far as it affected "posters," was not sustained by a proper construction of the act of June 30, 1884, section 94, upon which said decision purports to be founded.

There was filed with this application the statements of persons who had been and were then engaged in business as practical printers and publishers, which statements were in substance that printed posters are not printed circulars. Upon this testimony the said Faran & Mc-

district of Ohio, a detailed statement of the taxes asses
aforesaid, verified by the affidavits of one of the firm
Lean and their book-keeper, and demanded of said Co
of said assessor that the said sum of $2,663.28 be refu
taxes erroneously assessed and collected.

On the 6th of July, 1866, the Commissioner of Internal
E. A. Rollins) directed that taxes assessed and colle
after the date of August 24, 1865, might be refunded.

Thereupon the said officers refunded the sum of $43
the amount of taxes assessed against said Faran & M
by them for the months of September and October and p
of August, viz, from the 24th to the 31st of August, 18

The Commissioner did not pay the balance claim
McLean, but kept their application therefor under a
the applicants then and continuously thereafter maintai
tire sum paid as 5 per cent. duty on posters should be re

The papers filed in the case having become lost or
Hon. E. A. Rollins having ceased to be Commissioner of I
without disposing of the foregoing matter, the succeedin
held that it was a case which they could not reopen an
the ground that the claim was disposed of by his prede
and that under the rules governing the office there was
reopen.

It is alleged that claims of a similar nature have bee
that the only obstacle to the claimants in this case havi
considered is a purely technical one, caused by a chang
bency of the office of Commissioner of Internal Revenue.
appears that the claimants have no other method of re
act of Congress that will authorize the Commissione
case; and its long pendency in the Revenue Departm
fault of the claimants, has caused the time to elapse wi
sibly they could bring their case before the courts.

The committee, therefore, are of the opinion that the

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 706.

# LANDS GRANTED TO THE SOUTHERN PACIFIC RAILROAD COMPANY.

FEBRUARY 24, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. W. J. STONE, of Missouri, from the Committee on the Public Lands, submitted the following

## REPORT:

[To accompany bill H. R. 5883.]

The Southern Pacific Railroad Company was incorporated under the laws of the State of California December 2, 1865. It subsequently entered into articles of consolidation with other companies similarly incorporated, with the object and purpose of constructing and operating a line of railroad from San Francisco to a point on the Colorado River near the southeastern boundary of California.

On July 27, 1866, Congress passed an act incorporating the Atlantic and Pacific Railroad Company, and authorized it to construct a line of railroad beginning at Springfield, in Southwestern Missouri, and running through Western Missouri, the Indian Territory, the Pan Handle of Texas, and the Territories of New Mexico and Arizona, so as to intercept the Colorado River, as near as practicable, at the point where it crosses the thirty-fifth parallel of latitude, and thence through the State of California to the Pacific Ocean, and to aid in the construction of the road made certain conditional grants of lands to said company (14 Stat., p. 292).

The eighteenth section of that act is as follows:

SEC. 18. *And be it further enacted*, That the Southern Pacific Railroad, a company incorporated under the laws of the State of California, is hereby authorized to connect with the said Atlantic and Pacific Railroad, formed under this act, at such point, near the boundary line of the State of California, as they shall deem most suitable for a railroad line to San Francisco, and shall have a uniform gauge and rate of freight or fare with said road; and in consideration thereof, to aid in its construction, shall have similar grants of land, subject to all the conditions and limitations herein provided, and shall be required to construct its road on the like regulations, as to time and manner, with the Atlantic and Pacific Railroad herein provided for.

Thus it will be seen that the Southern Pacific, coming down from San Francisco, was authorized to connect with the Atlantic and Pacific at some point near where the latter should cross the Colorado River and enter the State of California; and that the provisions in the act granting lands to the Atlantic and Pacific were extended to the Southern Pacific, subject to the same conditions and limitations.

The map of the main line of the Southern Pacific, from San Francisco to the Colorado River, was filed in the General Land Office January 3, 1867. Stated in a general way, the route runs from San Francisco to San José; thence southward, a distance of 50 miles, to Tres Pinos; thence eastward, across the Coast Range of mountains, a distance of about 85 miles, to Huron; thence eastward to Goshen, and southeast-

within given limits in cases where any of the lands grant
previously sold or otherwise disposed of by the United
amount of land thus granted is estimated at 7,526,400 acr
lands, 1,040,430.03 acres have been patented to the compan
part thereof since sold by the company to innocent pur
have more or less improved them.

Your committee recommend the forfeiture of all the lan
the Southern Pacific Railroad Company by the third secti
of 1866, except such parts thereof as may be included wit
of any village, town, or city site, and such as may have be
sold by the company, and now in the possession of actual s
extent of 160 acres to each settler. The reasons for the e
so self-evident it is not thought necessary to elaborate t
from the exceptions, should the recommendations of your
followed by Congress, nearly 7,000,000 acres would be res
public domain and opened to entry and settlement under th
laws of the country.

Able and distinguished counsel appeared before your co
maintained that Congress has no power to make this forfeit
any act passed for that purpose would be unconstitutional a
because it would be an interference with vested rights and
of private property. It is contended for the company tha
all these lands, with one small and insignificant except
noted, has passed absolutely and irrevocably to the comp
of all the conditions imposed by the grant. A majority
mittee think otherwise. They are of the opinion that the
has the right and power to retake the lands for a breach
tions of the grant, and that that right and power exten
lands embraced in the grant, whether now patented or no

That is the legal issue between the attorneys of the co
the majority of your committee.

The *grant* is made by section 3 of the act, which is as fo

SEC. 3. *And be it further enacted*, That there be, and hereby is, gr
lantic and Pacific Railroad Company, its successors and assigns, for

occupied by homestead settlers, or pre-empted, or otherwise disposed of, other lands shall be selected by said company in lieu thereof, under the direction of the Secretary of the Interior, in alternate sections, and designated by odd numbers, not more than ten miles beyond the limits of said alternate sections, and not including the reserved numbers: *Provided*, That if said route shall be found upon the line of any other railroad route, to aid in the construction of which lands have been heretofore granted by the United States, as far as the routes are upon the same general line, the amount of land heretofore granted shall be deducted from the amount granted by this act: *Provided further*, That the railroad company receiving the previous grant of land may assign their interest to said "Atlantic and Pacific Railroad Company," or may consolidate, confederate, and associate with said company upon the terms named in the first and seventeenth sections of this act: *Provided further*, That all mineral lands be, and the same are hereby, excluded from the operations of this act, and in lieu thereof a like quantity of unoccupied and unappropriated agricultural lands in odd-numbered sections nearest to the line of said road, and within twenty miles thereof, may be selected as above provided: *And provided further*, That the word "mineral," when it occurs in this act, shall not be held to include iron or coal: *And provided further*, That no money shall be drawn from the Treasury of the United States to aid in the construction of the said "Atlantic and Pacific Railroad."

The eighth and ninth sections, which impose certain *conditions* on the grant made by the section just quoted, are as follows:

SEC. 8. *And be it further enacted*, That each and every grant, right, and privilege herein are so made and given to and accepted by said Atlantic and Pacific Railroad Company, upon and subject to the following conditions, namely: That the said company shall commence the work on said road within two years from the approval of this act by the President, and shall complete not less than fifty miles per year after the second year, and shall construct, equip, furnish, and complete the main line of the whole road by the fourth day of July, anno Domini eighteen hundred and seventy-eight.

SEC. 9. *And be it further enacted*, That the United States make the several conditional herein, and that the said Atlantic and Pacific Railroad Company accept the same, grants upon the further condition that if said company make any breach of the conditions hereof, and allow the same to continue for upwards of one year, then, in such case, at any time hereafter, the United States may do any and all acts and things which may be needful and necessary to insure the speedy completion of the said road.

These are the grant and the conditions, and those sections contain substantially all there is in the act affecting the lands in question, except section 4, which relates to the issuing of patents.

Section 4 is as follows:

SEC. 4. *And be it further enacted*, That whenever said Atlantic and Pacific Railroad Company shall have twenty-five consecutive miles of any portion of said railroad and telegraph line ready for the service contemplated, the President of the United States shall appoint three commissioners to examine the same, who shall be paid a reasonable compensation for their services by the company, to be determined by the Secretary of the Interior; and if it shall appear that twenty-five consecutive miles of said road and telegraph line have been completed in a good, substantial, and workmanlike manner, as in all other respects required by this act, the commissioners shall so report under oath, to the President of the United States, and patents of lands, as aforesaid, shall be issued to said company, confirming to said company the right and title to said lands situated opposite to and coterminous with said completed section of said road. And from time to time, whenever twenty-five additional consecutive miles shall have been constructed, completed, and in readiness as aforesaid, and verified by said commissioners to the President of the United States, then patents shall be issued to said company conveying the additional sections of land as aforesaid, and so on as fast as every twenty-five miles of said road is completed as aforesaid.

Here, then, is a grant made to the railroad company of certain lands, upon condition that the work of construction begin within a limited time, and be wholly completed by the 4th day of July, 1878, with a further provision that patents should issue for lands lying adjacent to completed sections of the road as the work of construction progressed along the line from one stated distance to another.

It is not claimed by the company that the road was built in conformity to the conditions of the grant as to time. Prior to July 4, 1878, the company had completed the road from San José to Tres Pinos, 50

miles, and from Huron, by way of Goshen, to Mojave, 182 miles, as appears by the reports of the commissioners appointed to inspect the road, and now on file at the Interior Department. As a matter of fact, since July 4, 1878, the road has been completed from Mojave to The Needles, on the Colorado River, 242 miles, and notice filed to that effect, though there has been no official acceptance of the work. Between Huron on the east and Tres Pinos on the west of the coast range, a distance of 85 miles, no work has ever been done; nor has the road been built between San Francisco and San José, though it is understood that at the latter place a connection for San Francisco is made with another road over practically the same route. A part of the road was completed within time, a part completed out of time, and a part remains uncompleted still.

With the facts thus stated and understood, the legal question is, whether the lands are subject to forfeiture, or whether they have gone beyond the reach of Congress. The lands may be divided into three classes:

(1) That part between Mojave and San José, over which the road was constructed prior to July 4, 1878, and to which the company became entitled to patents under the provisions of section 4, and to 1,040,430.03 acres of which it has actually received patents.

(2) That part between Mojave and The Needles over which the road was constructed after July 4, 1878.

(3) The mountain lands between Tres Pinos and Huron, and the lands between San Francisco and San José, over which no part of the road has been constructed.

The company admits that the lands embraced in class 3 are subject to forfeiture; but beyond that it holds Congress cannot go.

As to the lands embraced in class 1—those "earned," as the company expresses it, within time—the claim of the company, as made by its attorneys, may be stated as follows: They claim that the granting act of 1866 passed to and vested in the company a present estate in fee, subject to certain conditions subsequent; and that whenever twenty-five miles of the road was completed according to the requirements of the act, the conditions were discharged and lifted from the lands lying along that section of completed road, and the title of the company became complete, perfect, and indefeasible, and that the company became entitled to patents for such lands, though they hold that the issuing of patents is in no sense essential to the title, it being just as complete without them as with them, the patents being nothing more than an acknowledgment on the part of the Government that the conditions have been performed as to the lands patented. Hence they conclude that on July 4, 1878, the company owned an unconditional, indefeasible fee-simple estate in all the lands lying along every section of twenty-five miles of road completed at that time.

As to the lands embraced in class 2—those "earned" out of time—the claim of the counsel for the company may be stated as follows: That any time after July 4, 1878, Congress had the *right* to forfeit all lands where the road remained unconstructed, but that while that right *existed* it was one that might be *waived*, and until *exercised* the estate granted to and vested in the company by the act remained, and that the right of the company to go on with the work and perfect its title by performing the conditions continued until interrupted by an *actual declaration of forfeiture*. One of the learned counsel states it thus:

I hold this to be a grant of lands *in præsenti*, with a condition that the road shall be constructed, qualified by this: that as the road is constructed, in its divisions, and is

accepted by the Government, that construction and acceptance terminates the condition in reference to the lands embraced by the constructed portions of the road. Here was an estate that had vested for the whole grant, subject to a condition subsequent. An estate upon condition subsequent is not lost because the condition is not performed, and is only determinable by the act of the grantor. On that point I quote the exact language of Chancellor Kent:

"A condition does not defeat the estate, although it be broken, until entry by the grantor or his heirs; and when the grantor enters he is in as of his former estate."

In this case the grant was a grant *in præsenti*, and therefore it created an estate in fee—not in fee simple, but in fee—in the grantee, and the subsequent conditions to be performed tended to the destruction of an estate created, and the law does not favor that. Although the condition may be broken, and although the grantee may be subject to the right of re entry and liable to be dispossessed, yet, so long as the grantor does not exercise that right, the estate continues.

And while the estate continues, he further held, the company could go on with the work of construction and thereby unfetter and free the estate from the conditions.

According to this theory of the company—and that is the view taken by the attorneys representing all these railroad grants—the title of the company is just as good to the lands adjacent to the road constructed after July 4, 1878, as to the lands adjacent to the road constructed before that time. Hence it will follow that the right of forfeiture, if it exists at all, applies as well to one class as the other. Such is the view insisted upon by the attorneys representing the corporation.

As already stated, a majority of your committee are of the opinion that the right of forfeiture does exist and applies to the whole grant. They hold this grant to be a grant of lands upon condition.

Now, there are two kinds of conditions—conditions precedent and conditions subsequent. Where the condition is precedent, no right, title, interest, possession, or estate passes from the grantor to the grantee until the condition is performed. The whole estate remains with the grantor until the condition is performed, and then it passes to the grantee. In other words, the grant is inoperative until the condition is complied with. Where the condition is subsequent, the rule is the other way, and the right, title, interest, possession, and estate passes at once from the grantor to the grantee, subject to be defeated by nonperformance of the condition. The grant operates to transfer the estate *in præsenti* to the grantee, but if the grantee fails to perform the condition of the grant, the grantor may terminate the estate by re-entering and taking possession.

Such is the general rule. The exceptions are immaterial to the present consideration. It is sometimes difficult to determine whether a condition is precedent or subsequent. The character of the conditions in this and other similar grants has been the subject of careful consideration by your committee, and the conclusion reached is that the conditions are conditions subsequent. Indeed, similar grants with like conditions have repeatedly received judicial construction, and are uniformly held to be grants *in præsenti* upon condition subsequent. (Nicoll *vs.* N. Y. & E. R. R. Co., 2 Kern., 121; Leavenworth, &c., *vs.* U. S., 92 U. S., 733; M. K. &. T. Ry. *vs.* K. P. Ry., 97 U. S., 496.)

When the act of July 27, 1866, was passed and approved it operated at once, and had the effect of transferring from the United States to the Southern Pacific Railroad Company whatever interest the United States had in the lands granted, subject to the condition that the company would construct and complete its road along its line of definite location from one end to the other by July 4, 1878. Put section 3, making the grant, and section 8, imposing the condition, in juxtaposition, and read them together, *without reference for the time being to*

*section* 4, and there ought to be no difficulty in construing the grant to be one *entire grant* upon one *entire condition;* indeed, the grant cannot be otherwise interpreted, in the light of repeated judicial construction, if section 4 be eliminated from consideration. Section 3 says:

> That there be, and hereby is, granted to the Southern Pacific Railroad Company, its successors and assigns, * * * every alternate section of public land, not mineral, designated by odd numbers, to the amount of ten alternate sections of land per mile on each side of said railroad, &c.

That is a conveyance—the highest and best character of conveyance. A direct legislative grant is the highest muniment of title. It passed an immediate estate in fee to the company to all the lands described—to the whole and every part. In the language of the Supreme Court:

> The grant imports a grant *in præsenti*, and not *in futuro*, or the promise of a grant. (*Vide* Mo., &c., R. R. *vs.* Kans., &c., R. R., 97 U. S., 496.)

Again:

> It creates an *immediate interest*, and does not indicate a purpose to give in future. (*Vide* Leavenworth, &c., *vs.* United States, 92 U. S., 733.)

Again:

> The granting words are sufficiently comprehensive to pass whatever interest the United States possessed in the lands. *Supra.*

Section 3, then, passed a complete estate to the company, for it passed every interest the United States had, and the United States had everything as the original and exclusive owner. But the estate so granted is fettered by conditions imposed by section 8. Those conditions are as follows:

> That the said company shall commence the work on said road within two years from the approval of this act by the President, and shall complete not less than 50 miles per year after the second year, and shall construct, equip, furnish, and complete the main line of the *whole* road by the 4th day of July, A. D. 1878.

The central idea in these conditions is, that the *whole* road must be completed within the time limited. The company holds its estate in the lands granted upon that condition. If performed, the condition is satisfied and disappears; if broken, the United States may re-enter and recover their title and estate. Recover it for what purpose? It has been contended that sections 8 and 9 must be construed together, as parts of one condition, and an effort has been made to create some confusion by the peculiar phraseology of section 9—that if any condition remains broken for the space of one year, the United States may do anything which may be needful and necessary to insure a speedy completion of the road. That is interpreted by the friends of the corporation to mean that these lands are set apart by Congress and irrevocably dedicated to the purpose of building that road, and so limits the right of the Government to re-enter for condition broken that it cannot take and divert them to any other use. Your committee do not think the two sections are necessarily connected with, or dependent upon, each other. But, in their view, that is immaterial.

Section 8 raises three conditions: (1) The work of construction must be commenced within a certain time; (2) a certain amount of work must be done each year; (3) the whole work must be completed within a given time. If any of those conditions are broken, and so remain for one year, the United States may do any and all things necessary to insure a speedy completion of the road. The United States *may* incorporate another company, and, instead of granting lands, may grant a subsidy in money, guarantee the company's bonds, or do whatever may be

thought best. The committee are unable to see how all that can in any way affect the right of the Government to retake the lands; and if that right exists and is exercised, it cannot be a matter of concern to this railroad company what the Government may do, or can do, with the lands. Certainly the lands were not irrevocably and unconditionally dedicated to this particular company. The estate of this company is upon conditions, which, being broken, gives the Government a right to re-enter and take possession of the lands, and what may be, or can be, afterwards done with them cannot be of interest to the present grantee. In Greenleaf's Cruise on Real Property (vol. 2, pp. 44, 52) it is stated:

> Where a person enters for a condition broken the estate becomes void *ab initio;* the person who enters is again seized of his original estate in the same manner as if he had never conveyed it away.

And that is the sum of the law as stated in all the books. These lands were granted to this company upon conditions, which have been broken, and now the Government proposes to re-enter and take possession. The company may deny the right of the United States to divert the lands to any use other than the construction of the road; but the United States may reply that they were the original owners of the land; they made the grant and created the conditions, are now in of their original estate, and that there is no person or power behind them to question or direct.

So far the argument has proceeded without reference to section 4, and the conclusion reached that the grant is a grant of so much land as an entirety, and that the condition as to the completion of the whole road is a simple condition covering the whole grant, and for a breach of which the grant may be forfeited. But it is claimed by the grantee that section 4 modifies and restricts the condition so that it does not necessarily apply as one entire, indivisible condition to the whole grant, but that whenever twenty-five miles of road are completed the condition is satisfied and discharged to that extent. If section 4 was not a part of the act—if it could be eliminated—there would be no room for doubt that the construction given the act by your committee is correct. According to the view of your committee section 4 in no wise affects that construction. Section 4 does not enlarge the estate granted, nor restrict the conditions upon which it depends. Neither the estate granted nor the conditions are affected by the provisions of that section. That section simply provides that whenever the commissioners appointed by the President shall report that twenty-five miles of road have been completed, patents "shall be issued to said company *confirming* to said company the right and title to the lands situate opposite to and coterminous with said completed section of said road." And afterwards, from time to time, whenever twenty-five additional consecutive miles shall be constructed, "patents shall be issued to said company *conveying* the additional sections of land as aforesaid," &c.

Those provisions are a stumbling-block in the way of some gentlemen. But it should be remembered that the "right and title" of the company to the lands do not depend on the patents, but on the grant. The attorneys for the corporation do not claim that the estate was in abeyance until patents were issued or "earned." They agree with the committee that the third section of the granting act conveyed the whole title and estate of the Government to the company, and that the patents, when issued, add nothing to the estate. The company cares nothing for the patents. It has never even applied for them to the greater part of the lands "earned" prior to 1878, and to which it was entitled to patents under the provisions of section 4. If the condition is performed the

title is just as good without patents as with them. Though section 4 speaks of "confirming" and "conveying" the land by patents, it is a misuse of terms. The patents do not "confirm" or "convey" the lands. The Supreme Court has repeatedly held that the words of the granting act passed every interest the Government had, and if that be so there was nothing to convey by patent. In Whitney *vs.* Morrow, 112 U. S., 693, the Supreme Court say:

> If by a legislative declaration a specific tract is confirmed to any one, his title is not strengthened by a subsequent patent from the Government. That instrument may be of great service to him in proving his title, if contested, and the extent of his land, especially when proof of its boundaries would otherwise rest in the uncertain recollection of witnesses. It would thus be an instrument of quiet and security to him, but it could not add to the validity and completeness of the title confirmed by act of Congress.

Again, in Langdon *v.* Hanes (21 Wallace, 521) the Supreme Court uses this language:

> In the legislation of Congress a patent has a double operation. It is a conveyance by the Government *when the Government has any interest to convey*, but where it is issued upon the confirmation of a claim of a previously existing title it is documentary evidence, having the dignity of a record of the existence of that title, or of such equities respecting the claim as justify its recognition and confirmation. The instrument is not the less efficacious as evidence of previously existing rights, because it also embodies words of release or transfer from the Government. In the present case the patent would have been * * * an instrument of quiet and security. But it would have added nothing to the force of the (Congressional) confirmation.

In the sense of being a convenient and customary evidence of title, the patents might be of value, but not in the sense of adding anything to the estate granted To that extent your committee and the company are agreed.

But while it is admitted that the patents have only the value indicated, and is further admitted that section 3 passed the *whole* estate of the Government to the company, subject to certain conditions, it is contended that section 4 reaches over to the conditions raised by section 8, and changes what would otherwise be one entire condition (as to final completion), requiring entire performance, into a condition which may be performed in part. That construction, however, is not sound. First, comes section 3, which granted the estate; then comes section 4, which provides for issuing patents, not to convey title—for that has been already done—but as an evidence of title, or, if you please, as evidence of the fact that so far the work of construction has been completed; and then follows section 8, which declares—

> That *each and every grant, right, and privilege herein are made, and given to, and accepted by said Southern Pacific Railroad Company, upon and subject to the following condition, namely: That the said company shall* * * * *complete the main line of the whole road by the 4th day of July*, 1878.

It would seem there was very little room for construction here. This broad and sweeping condition was put into the act after the rights, whatever they are, conferred by section 4 had been granted; and, though conditions subsequent are strictly construed, there can be no logical rule of interpretation which can so enlarge the scope and meaning of section 4 as to entirely change the manifest purpose and effect of the condition.

In the view here taken of this grant that it is one entire grant upon one entire condition, the question of waiving the breach is not important, since it stands admitted that the road is not even yet completed.

If the views here expressed as to the legal aspect of this case are well founded, then the right to make this forfeiture exists. The only remaining question is whether the right ought to be exercised. That is

a broad question of policy, which your committee do not feel inclined, nor consider it necessary, to discuss at this time. Private right, whether corporate or personal, should be upheld with jealous care, for therein lies the safety of the state. But it is not thought by your committee that the restoration of this great domain to the people who were unwisely if not wrongfully deprived of it in the first instance would be in derogation of any honest private right.

Your committee recommend the passage of the following bill as a substitute for the bills referred to the committee:

A BILL forfeiting certain lands granted to the Southern Pacific Railroad Company (of California) by section eighteen of the act of Congress approved January twenty-seventh, anno Domini eighteen hundred and sixty-six.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That all the lands granted to the Southern Pacific Railroad Company (a corporation organized under the laws of the State of California) by an act of Congress approved January twenty-seventh, anno Domini eighteen hundred and sixty-six, be, and the same hereby are, forfeited to the United States and restored to the public domain, except the right of way through the public lands and all necessary grounds for station-buildings, workshops, depots, machine-shops, switches, side-tracks, turn-tables, and water-stations, and also all lands included within the limits of any village, town, or city site, and also, except any lands sold by the said Southern Pacific Railroad Company to and now in the possession of actual settlers, to an amount not exceeding one hundred and sixty acres to each settler, the land to be selected by the settler within one year, in case he shall have purchased in excess of one hundred and sixty acres, by filing a description of such selection at the proper land-office or with the Commissioner of the General Land Office.

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Mr. VAN EATON, from the Committee on the Public Lands, submitted the following

# VIEWS OF THE MINORITY:

The undersigned, members of the Committee on the Public Lands ling to agree with the report made by the majority on the bill (H. R No. 148) to declare forfeited certain lands granted to the Southern Pacific Railroad Company by the act of Congress approved July 27, 1866, and amendments thereto, suggested by the committee, beg leave to submit to the House the following statement:

In December, 1865, the Southern Pacific Railroad Company was organized under the laws of California to construct, own, and maintain a railroad from some point on the Bay of San Francisco, &c., to the eastern line of the State of California, there to connect with a contemplated railroad from the eastern line of the State of California to the Mississippi River.

At that time no grant of land had been made for a railroad up or near the thirty-second or thirty-fifth parallels of latitude. It was believed that such road or roads would be authorized and built, and it was the intention of the Southern Pacific Company to connect with such road or roads at the eastern boundary of the State, at whatever point it or they might enter California.

July 27, 1866, Congress passed an act entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast." (14 Stat., 292.)

The following are the sections of the act material to this inquiry:

SEC. 3. *And be it further enacted*, That there be, and hereby is, granted to the Atlantic and Pacific Railroad Company, its successors and assigns, for the purpose of

the reserved numbers: *Provided*, That if said route shall be f
any other railroad route, to aid in the construction of which la
fore granted by the United States, as far as the routes are c
line, the amount of land heretofore granted shall be deduc
granted by this act: *Provided further*, That the railroad comp
visions grant of land may assign their interest to said "Atlantic
Company," or may consolidate, confederate, and associate wit
the terms named in the first and seventeenth sections of this
That all mineral lands be, and the same are hereby, excluded
this act, and in lieu thereof a like quantity of unoccupied and
cultural lands in odd-numbered sections nearest to the line of
twenty miles thereof, may be selected as above provided: *And*
the word "mineral," when it occurs in this act, shall not be b
coal: *And provided further*, That no money shall be drawn fro
United States to aid in the construction of the said "Atlantic a

SEC. 4. *And be it further enacted*, That whenever said Atlantic
Company shall have twenty-five consecutive miles of any port
telegraph line ready for the service contemplated, the Presiden
shall appoint three commissioners to examine the same, who sh
ble compensation for their services by the company, to be determ
of the Interior; and if it shall appear that twenty-five consecu
and telegraph line have been completed in a good, substant
manner, as in all other respects required by this act, the com
port under oath to the President of the United States, and pat
said, shall be issued to said company confirming to said compa
to said lands situated opposite to, and coterminous with, said
said road. And from time to time, whenever twenty-five additi
shall have been constructed, completed, and in readiness, as afo
said commissioners to the President of the United States, then
to said company conveying the additional sections of land as a
fast as every twenty-five miles of said road is completed as afo

SEC. 5. *And be it further enacted*, That said Atlantic and Pa
constructed in a substantial and workmanlike manner, with al
culverts, bridges, viaducts, crossings, turn-outs, stations, and
all other appurtenances, including furniture and rolling stock,
railroads of the first class when prepared for business, with rai
manufactured from American iron; and a uniform gauge shall b
out the entire length of the road; and there shall be construc
the most substantial and approved description, to be operated
*Provided*, That the said company shall not charge the Governm
they do individuals for like transportation and telegraphic ser
the duty of the Atlantic and Pacific Railroad Company to per
which shall be authorized to be built by the United States a

shall be, and the same are hereby, extended to all other lands on the line of said road when surveyed, excepting those hereby granted to said company.

SEC. 8. *And be it further enacted*, That each and every grant, right, and privilege herein are so made and given to, and accepted by said Atlantic and Pacific Railroad Company, upon and subject to the following conditions, namely: That the said company shall commence the work on said road within two years from the approval of this act by the President, and shall complete not less than fifty miles per year, after the second year, and shall construct, equip, furnish, and complete the main line of the whole road by the fourth day of July, anno Domini eighteen hundred and seventy-eight.

SEC. 9. *And be it further enacted*, That the United States make the several conditional grants herein, and the said Atlantic and Pacific Railroad Company accept the same, upon the further condition that if the said company make any breach of the conditions hereof, and allow the same to continue for upwards of one year, then, in such case, at any time hereafter, the United States may do any and all acts and things which may be needful and necessary to insure a speedy completion of the said road.

Section 18 of said act, making a grant to the Southern Pacific Railroad Company, is as follows:

SEC. 18. *And be it further enacted*, That the Southern Pacific Railroad, a company incorporated under the laws of the State of California, is hereby authorized to connect with the said Atlantic and Pacific Railroad, formed under this act, at such point near the boundary line of the State of California as they shall deem most suitable for a railroad line to San Francisco, and shall have a uniform gauge and rate of freight or fare with said road, and in consideration thereof, to aid in its construction, shall have similar grants of land, subject to all the conditions and limitations herein provided, and shall be required to construct its road on the like regulations, as to time and manner, with the Atlantic and Pacific Railroad herein provided for.

In December, 1866, the Southern Pacific Railroad Company filed with the Secretary of the Interior its acceptance of said act. In January, 1867, the company filed with the Commissioner of the General Land Office a map of the line of its proposed road, commencing near the southern end of the Bay of San Francisco and ending at a point on the Colorado River near the 35th parallel of north latitude.

In March, 1867, the lands within the limits of the grant were withdrawn for its benefit by order of the Secretary of the Interior.

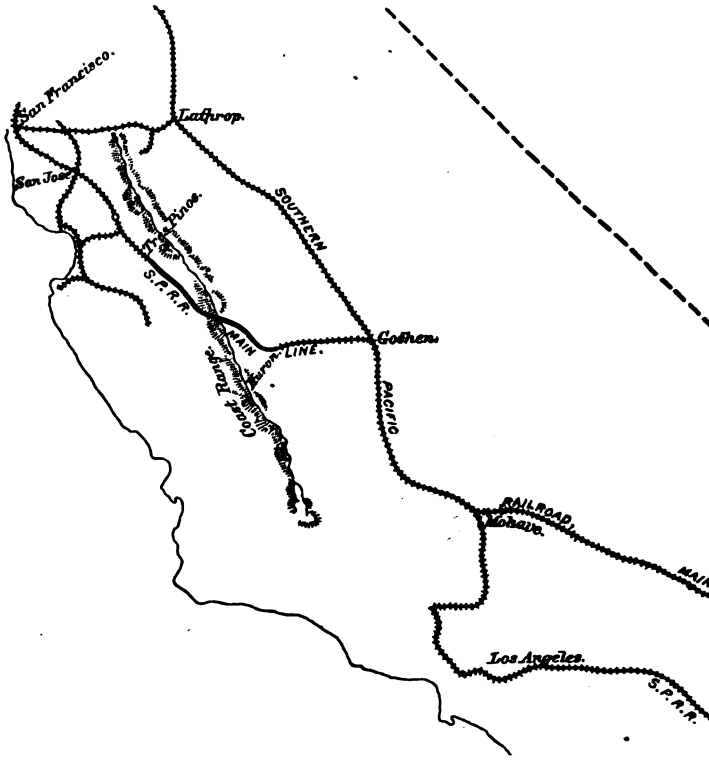
On the 25th of July, 1868, Congress passed an act (15 Stat., 187) extending the time for the construction of the first section of its road, &c., as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Southern Pacific Railroad Company of the State of California shall, instead of the times now fixed by law for the construction of the first section of its road and telegraph line, have until the first day of July, eighteen hundred and seventy, for the construction of the first thirty miles, and they shall be required to construct at least twenty miles every year thereafter, and the whole line of their road within the time now provided by law.

There was some question at the Interior Department concerning the map of the company's road, filed in 1867, and the regularity of the withdrawal ordered thereon; but all questions were determined by the adoption by Congress, June 28, 1870, of a joint resolution, as follows (16 Stat., 382):

*Be it resolved, &c.*, That the Southern Pacific Railroad Company of California may construct its road and telegraph line, as near as may be, on the route indicated by the map filed by said company in the Department of the Interior, on the third day of January, eighteen hundred and sixty-seven; and upon the construction of each section of said road in the manner and within the time provided by law, and notice thereof being given by the company to the Secretary of the Interior, he shall direct an examination of each such section by commissioners, to be appointed by the President, as provided in the act making a grant of land to said company, approved July twenty-seventh, eighteen hundred and sixty-six, and upon the report of the commissioners to the Secretary of the Interior that such section of said railroad and telegraph line has been constructed as required by law, it shall be the duty of the said

cable pass can be found, and where it would be next to
construct a road. Around this gap, however, the compa
connections as make its line continuous, and the few peop
are perhaps as well served as they would be by a road ove
ains.



From Mojave to the Colorado River (the Needles), about 240 miles, the road was not built "in time." Under the law the road was required to be so constructed as to connect with the Atlantic and Pacific Road near the eastern boundary of California. The construction of the latter road had ceased at a point 1,200 miles east of the California line, and its further construction was apparently abandoned. In the absence of some prospect of a connection from the east, the construction of the road from Mojave to the Colorado River, crossing a desert, without population or material for traffic, would have been without object, a needless expenditure of money, without return to the investors, and without advantage to the people or to the United States. As soon as it became apparent that the Atlantic and Pacific Road would be built, the Southern Pacific Company commenced the construction of the road from Mojave, and it was completed to the Colorado River (the Needles) before the Atlantic and Pacific Railroad reached that point.

We here call attention to the accompanying map the better to show the lines of the Southern Pacific. It will be seen, as heretofore stated, that that part of the road across the mountain, from Tres Pinos to Huron, about 85 miles, is not completed, and it is proper to add that, owing to engineering difficulties, it had to be abandoned. All the rest of the road, from San Francisco to the Colorado River, at the Needles, is completed, and all was completed "in time," save only from Mojave to the Needles, some 242 miles, and the whole of it is being operated.

The majority of the committee reached the conclusion that this is a grant *in præsenti*, with conditions subsequent, for the breach of which the grantor would have a right to declare a forfeiture.

Section 8 of the granting act provides that the grant is made and given to and accepted by the company upon certain conditions, viz, that it shall commence the work within two years, complete a certain number of miles per year, and construct, equip, furnish, and complete the main line of the whole road by July 4, 1878. And section 9 prescribes, as a further condition made by the United States and accepted by the company, that upon a breach of the conditions, the same continuing for more than one year, "then, in such case, at any time hereafter, the United States may do any and all acts and things which may be needful and necessary to insure a speedy completion of the said road."

The majority report contends that section 9 is in no way repugnant to section 8, but while embracing all that is included therein, and to that extent cumulative, is also, in connection with implied conditions in section 5, a declaration of further and additional conditions subsequent, for breach of which Congress may interfere.

We do not so view it. It is clear, from a careful reading of sections 8 and 9, that they are to be taken together, and without reference, for further conditions, to other portions of the act. Section 8 for the first time names conditions prescribed and accepted, and section 9 names as a "further condition" prescribed and accepted, that if there be a breach of any of the conditions (in section 8) Congress may do that which will insure a speedy completion of the road. These two sections must be read together. Section 9 must refer to the conditions named in section 8, which relate altogether to the completion of the road, because, in the latter, Congress reserved the right to insure the completion of the road if the conditions were not complied with—that is, constructed within a certain time, as prescribed by section 8. If section 8 stood alone, it might be safely admitted that Congress might declare a forfeiture in a bill providing for a judicial ascertainment of the facts and determination of the law. But, notwithstanding the views expressed by the majority,

we hold that section 9 is a direct and absolute qualification of the inherent powers of Congress in relation to forfeiture. It does not say that the land shall revert; it does not provide for forfeiture; it only provides that Congress may insure a speedy completion. This language is not meaningless. In previous grants the condition was clearly set forth, as well as the penalty for a breach.

This construction of the sections under consideration seems not only strengthened, but confirmed, by the language of section 20, evidently applying to the road and grant under consideration as well, and as much, as to the Atlantic and Pacific, namely:

SEC. 20. *And be it further enacted*, That the better to accomplish the object of this act, namely, to promote the public interest and welfare by the construction of said railroad and telegraph line, and keeping the same in working order, and to secure to the Government at all times, but particularly in time of war, the use and benefits of the same for postal, military, and other purposes, Congress may at any time, having due regard for the rights of said Atlantic and Pacific Railroad Company, amend, add to, alter, or repeal this act.

Thus the "object of the act" was not to make a gift or confer a favor, as is sometimes contended, but, in plain language and in terms, it was "to promote the public interest and welfare, by the construction of said railroad and telegraph line," &c.; and to that end Congress might "at any time add to, alter, amend, or repeal this act," but in so doing, should have "a due regard for the rights of said * * * railroad company." The railroad and telegraph line were in any event to be built, "to secure to the Government at all times, but particularly in time of war, the use and benefits of the same for postal, military, and other purposes," if not by the company, then by the Government. Thus the "object of the act" was to be effected, and if Congress should find it necessary and proper to intervene, it should be with a "due regard to the rights of the company."

In this connection we here quote and adopt the language of the minority in their report to the Forty-eighth Congress, first session, on the subject of the forfeiture of the land grant to the Northern Pacific Railroad Company (Report 1256):

If, however, we concede—which we do not—that the grant was of an estate on condition, for the breach of which a forfeiture could have been declared, does that fact justify the report of the committee? We hold that it does not, for the reason that, on well-settled principles both of law and equity, the Government has waived the right of forfeiture, if it ever existed. The thing which remains with and resides in the grantor of an estate *in præsenti*, with condition subsequent, is in no sense property or estate, and is not the subject of sale or transfer. It is a thing in action, dependent upon a contingency, the happening of which, the breach of the condition, is necessary to raise it to the dignity of a right, while the grantor takes an estate which he may sell or mortgage, and which will pass as an inheritance, subject only to the condition. If, therefore, the grantor does an act inconsistent with that right while in either the inchoate or perfect state, it is thereby waived or lost. Mere silence or inaction, when it is not the duty of the grantor to speak or act, is not a bar, but, *eo converso*, when conduct or silence is misleading. (Nicoll *vs.* New York and Erie Railroad Company, 12 N. Y. Rep., 137; Marks *vs.* Marks, 10 Modern; Brooks *vs.* Martin, 43 Ala., 360.)

We concede that this Government has the physical power to disregard the right and to do anything it pleases, but such never has been its course in dealing with its citizens, and so long as just men and enlightened statesmen control its councils and tribunals, it never will be administered in any of its departments upon the monarchical principle that, like the king, it can do no wrong, and is bound by no obligation but its own sovereign will. This, then, being a Government of law, it will ever set a good example and bind the citizens more strongly to it by itself obeying the law.

The position of the minority is this:

Where a company has constructed a road, or any section of it, in manner required by the granting act, at any time before proceedings are commenced for forfeiture, or

to annul the grant, that such company is entitled to the amount of land that such constructed section would entitle the company to, had the whole road been constructed in accordance with the terms of the grant, and this is what we mean by earned lands.

And more particularly is this so where the granting act contains a provision or provisions similar to those found in section 4 of the act under consideration.

The majority of the committee in their report evidently find much difficulty with this fourth section, and labor hard, and, as we think, vainly to overcome it, and seem to find the solution of their troubles in section 8. The intimation is, that because section 8 comes after section 4, it must be held to construe it, and limit what would, but for section 8, be its obvious meaning.

It is familiar law, that of two acts relating to the same subject the last is held to govern, to be the latest expression of the legislative will; but, in considering different sections of the same act, if there is argument or doubt as to the legislative meaning, that is to be gathered from the whole act. Now read sections 4, 8, 9, and 20, and are we not forced to the conclusion that the prime object in the legislative mind was the building of the road, and that section 4 was inserted to forward this object, directly to aid the company, by enabling them to obtain money by a sale of the lands as the road progressed, and to that end that they should have absolutely the granted lands coterminous with every completed section of twenty-five miles. Courts will always, when possible, construe statutes so as to give them effect and make them operative.

Now, if the fourth section is not to have the force and effect contended for by the minority, then it has no business in the act. As further strengthening these views we refer to joint resolution of June 28, 1870 (16 Stat., 382), quoted above, in which the language of the fourth section is substantially repeated, and four years after the original grant was made.

In the case of Van Wyck *vs.* Knevals (16 Otto, p. 368), the Supreme Court, in construing a land grant containing a section, similar to this fourth section, used the following language:

> Assuming * * * that the company's proposed road was not entirely completed, the fact remains that the company constructed a portion of the proposed road, and that portion was accepted as completed in the manner required by act of Congress.
>
> Patents for some of the adjoining sections were accordingly issued to the company, and a right to all of them, not specially reserved by the condition of the grant, vested in it.
>
> So far as that portion of the road which was completed and accepted is concerned, the contract of the company was executed, and as to the lands patented the transaction on the part of the Government was closed, and the title of the company perfected. The right of the company to the remaining odd-numbered sections adjoining the road completed and accepted, not reserved, is equally clear.
>
> If the whole of the proposed road has not been completed, any forfeiture consequent thereon can be asserted only by the grantor, the United States, through judicial proceedings, or through the action of Congress. (Schulenberg *et al. vs.* Harriman, 21 Wall., 44.)

The bill reported by the committee proposes to forfeit the entire grant, as well the lands adjacent to such portions of the road as were completed in time, as those adjacent to portions completed out of time, or never completed at all, saving only so far as the railroad is concerned, the right of way and its incidents, through public lands, and city, town, or village sites, and allowing to actual settlers 160 acres of any lands bought from the railroad company. All acreage in excess of that bought of the railroad company and honestly paid for by actual settlers, and every acre bought by persons other than actual settlers, is to be forfeited, regardless of the rights of persons or corporations. Surely

forfeiture.

Under the terms of this grant the road was to be comp
tions and to be received in sections, and patents were to
the sections thus completed and received.

How, then, can it be held that the grant is upon the co
if the whole of the road is not completed by the 4th day
that the entire grant became forfeited, and that the Gove
have re-entry or declare a forfeiture as to the whole grant
the original estate"?

This separation of the work and of the grant into sectio
five miles completely severed the contract and destroyed
The company was not to await completion of its road bef
patents, but they were to be issued in installments as t
gressed.

In Packet Co. *vs.* Sickles, 10 Howard, 419, Grier, J., say

> If the defendants had agreed to pay by installments at the end of every twenty-seven weeks, doubtless the plaintiffs could have susta for the breach of each promise as the breaches successively occurred.

The same principle governs here.

But mark the language used in section 4: "That w
* * * railroad company shall have twenty-five conse
of *any portion* of said railroad and telegraph line ready f
the President was to appoint three Commissioners, and
report the law was found to have been complied with for
five miles, patents should be issued to said company "*confi*
*company the right and title to said lands* situated opposite
minous with said *completed* section of said road," and so
to time, whenever twenty-five additional consecutive mil
completed.

For what purpose were patents to issue? For the purp
*firming to said company" the right and title* to each twenty-
completed, of "*any portion*" of said road. Now, when all
done, and done in time, the lands patented to the company
company deeded to individuals, and by these individuals

"select out the 160 acres which we graciously allow you, and be thankful that we do not take all!" In case this third or fourth party is not an actual settler, why take all any way; he shall have nothing.

But if the purchaser or third or fourth party happens to own town, city, or village property, *he* is all right; under the bill reported by the majority *he* is to be protected to his last cent. He may have speculated and made his thousands—he may keep all his gains; but if he has bought lands in the country, "away from city, town, or village site," that shall be taken away, and the honest settler who has been thoughtless enough to invest his hard earnings in the enlargement of his farm beyond 160 acres shall lose all such enlargement or increase.

Usually these "city, town, and village sites" along great railroad lines are located by the companies—"placed where they will do the most good"—swell the corporate gains, and add to their profits. Largely the companies own these sites and control them. The majority, therefore, favor the railroads and the speculators at the expense of the poor settler and hard-working farmer!

It will be borne in mind the bill reported by the majority makes no distinction as to forfeiture of lands situated "opposite to and coterminous with" such sections of the road as were completed "in time" and those "completed out of time;" and in this, we think, they are consistent, for if one class of the lands should be forfeited, so should the other; the minority hold that as to the right of forfeiture (if one exists, which in its technical sense we deny) lands coterminous with any portion of the road completed in sections, according to law, before action on the part of the Government looking to resumption or reclamation (of the lands), are in the same condition as to the power of the Government over them, whether the portions of the road to which they are adjacent were completed "in" or "out of time," always observing that good faith has been maintained and no fault is imputed to the road, save only that some portions were not completed in time and others not completed at all, the more especially when, as in this case, the whole connection between the termini has been made and the road operated from point to point substantially as contemplated by the granting act. This argument, of course, refers only to lands coterminous with sections of the road completed as above. As to the incompleted portion, when Congress comes to act, there can be no question; no one can contend for an instant that the road can have the benefit of a land grant along portions of the line where no road has been built by the grantee, corporation, or its assignee.

So far as the road has been completed, whether before or after July 4, 1878, there is no breach of which the Government can take advantage at this late day. It is well known to Congress and to the Land Department that the entire road was not completed at the date fixed by the eighth section of the act. As to the portion then incompleted the company was in the power of Congress, which might have conferred the grant upon some other company, or done some other thing which would have resulted in the completion of the road. But Congress did nothing. Having permitted the company to go on and practically complete the road without any action whatever looking to a resumption of the grant or enforcement of the conditions, it is too late for the proposed action.

In the familiar case of Schulenberg *vs.* Harriman (21 Wall., 44), the court was dealing with a grant containing a condition subsequent in these words:

If the road is not completed within ten years, no further sales of the lands granted shall be made, and the lands unsold shall revert to the United States.

tent its title is complete and beyond the reach of legislat
tive action.

And this is the only consistent conclusion in view of t
visions of section 4 of the granting act, heretofore quoted a

As we have seen, the whole road from San José to the Co
(exeept from Tres Pinos to Huron) has been completed
José to Mojave (except as above) it has been examined by
ers, reported to and accepted by the President, and paten
ordered to issue. From Mojave to the Colorado River it
amined by the commissioners duly appointed and rep
President, whose acceptance thereof is only withheld be
proposed legislation.

We conclude that to the extent indicated there is neithe
right in attempting legislation interfering with this gran
has been built without intervention by Congress, the c
Executive. The company has thereby acquired rights whi
set aside if we would, and should not if we could. The
structed; its trains are running; the purpose of the gran
patents have been issued, and the granted lands are in
not less than 100,000 inhabitants; and good faith and
alike dictate that patents should be issued for such tracts
come within the grant.

So far as the road is now constructed the lands have been earned.
to attempt, by legislation, to take from the company that to which
right seems to us unjust and unwarranted. Such action is not den
considerable number of people anywhere, and its effect would be to
encourage the few, who, in the spirit of communism, would destroy a
and corporate rights.

In accordance with these views, and in consonance with
gard as both the law and the equity of the case, we repor
panying bill, and ask that it be printed, as we shall offer i
tute for the bill of the committee.

H. S. VAN E
H. B. STRAI
ISAAC STEP

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 707.

# LAND DISTRICTS IN DAKOTA.

FEBRUARY 24, 1886.—Referred to the House Calendar and ordered to be printed.

Mr. STRAIT, from the Committee on Public Lands, submitted the following

## REPORT:

[To accompany bill H. R. 2823.]

*The Committee on Public Lands, to which was referred the bill (H. R. 2823) to create two additional land districts in Dakota and to define the boundaries of the Deadwood district, submits the following report thereon:*

The purpose of this bill is to create additional land districts, the better to facilitate public business.

Under the provisions of a bill now pending in this body, a large tract of land, now embraced in the great reservation of the Sioux Indians, will be added to the public domain, and this land will be eagerly sought for homestead purposes. The great body of this land which will be added to the public domain is so situated that it is too far removed from existing land offices to make it desirable, either from principles of economy or convenience, that it should be annexed to existing districts.

That portion of the ceded lands (under Senate bill No. 52, now pending) which lies west of the one hundred and second meridian of longitude west from Greenwich, is sufficiently convenient to the Deadwood land office to make it advisable to annex it thereto; but that portion of the ceded lands (being now a portion of the Sioux Indian Reservation) lying east of said one hundred and second meridian is so far removed from any existing land office that it would be a positive hardship to a worthy and enterprising class of pioneers to annex said lands to any existing district now in operation. The Forty-seventh Congress created two land districts in this Territory, contingent upon the opening to settlement of said land, but the boundaries fixed in said legislation are not compatible with the convenience and best interests of the public; and this legislation is therefore recommended to change said boundaries, the better to accommodate the settlers on said public domain.

Said ceded lands east of the one hundred and second meridian are separated from north to south for a considerable distance by permanent Indian reservations, making it essential that two districts be created, even were not the area sufficient for two large districts, as is the case.

This bill also provides for annexing portions of districts already established to the proposed districts, for the purpose of facilitating business and relieving said old districts, now overburdened.

The proposed districts embrace a considerable area within their limits that will still remain reservations for Indians, but the proposed law for

the allotment of lands in severalty to the Indians, and their advancing civilization, will make it necessary that said reservations be surveyed and plats thereof kept on file at convenient locations, as in the case of the public domain, and advisable that all reservations should be within the limits of land districts.

Under section 4 this bill is not operative until the proposed treaty with the Indians has been duly ratified.

The committee therefore recommends the passage of the bill.

O

49TH CONGRESS, 1st Session. } HOUSE OF REPRESENTATIVES. { REPORT No. 708.

# MARGARET D. MARCHAND.

FEBRUARY 24, 1886.—Committed to the Committee of the Whole House and ordered to be printed.

Mr. SWOPE, from the Committee on Invalid Pensions, submitted the following

## REPORT:

*The Committee on Invalid Pensions, to whom was referred the bill (H. R. 2060) granting a pension to Margaret D. Marchand, widow of Commodore J. B. Marchand, late of the United States Navy, having duly considered the same, submit the following report :*

A bill similar in its provisions to this bill was favorably reported by the Senate Committee on Pensions in the Forty-eighth Congress, and was passed by the Senate. It was not acted on by the House for want of time for its consideration.

Your committee adopt the report of the Senate committee (hereto appended) as to the statement of facts, but propose that the amount of pension to be paid to the widow of Commodore Marchand be left subject to the provisions and limitations of the pension laws, and that the bill be amended by striking out all after "Navy," in line 7. Thus amended, the committee report favorably, and recommend the passage of the bill.

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[Senate Report No. 1173, Forty-eighth Congress, second session.]

The Committee on Pensions, to whom was referred the bill (S. 957) granting a pension to Margaret D. Marchand, have examined the same, and report favorably, recommending, with an amendment striking out the word "fifty" and inserting the word "thirty," in the eighth line, the passage of the same. The facts are set forth in the narrative of Mrs. Marchand as follows, and of the witness Thornton as follows:

On this 15th day of May, 1884, before me, Sprigg Harwood, clerk circuit court for Anne Arundel County, personally appeared Margaret D. Marchand, who being duly sworn according to law, deposes and says as follows, to wit:

In the year 1861 my husband, the late Commodore John B. Marchand, then commander, was in command of the steamer James Adger, off Charleston, S. C., engaged in the naval service of the United States Government in the late civil war. At that date he was in robust health and perfect physical condition. He had always been a man of unusually robust constitution, weighing over 200 pounds, and of perfectly regular habits, and from the day of our marriage, to wit, the 11th day of November, 1856, until the date of his taking command of the steamer James Adger, in 1861, have never known him to have any sickness, with the exception of some trivial derangement, of perhaps a day's duration, and never requiring any medical attendance. His habits throughout his entire life were uniformly regular and temperate.

To the best of my knowledge he went upon blockade duty in the year 1861, in his usual health, and came to our home in Baltimore, in 1864, broken down in health and much reduced in flesh, after protracted blockade duty, and after the severe engagements

while in command of the U. S. S. Lackawanna in Mobile Bay. At the date of his promotion to the rank of commodore, in the year 1866, for distinguished services, the usual physical examination was waived. Soon after this date symptoms of defective circulation commenced, manifesting itself in the ends of his fingers, they becoming bloodless and livid in color. In 1871 he was a frequent sufferer from violent pains in his chest. In the winter of 1873 and 1874 Commodore Marchand was confined to the house, suffering extremely from the swelling of his feet. In the winter of 1874 and 1875 he had hemorrhages of the lungs; the last of these hemorrhages was the immediate cause of his death. Dr. Mahan, of Pennsylvania, our family physician, who attended Commodore Marchand during the early periods of his sickness, is now deceased. Drs. Dale and Zeigler, who attended him at his death, pronounced his complaint from which death resulted to be heart disease.

My belief is further strengthened by the information of Dr. Ridoute, of Annapolis, Md., that the defective circulation, pains in the chest, and swollen limbs were all symptoms of the heart disease, which resulted in Commodore Marchand's death; and that all these symptoms and the disease which resulted in the commodore's death were produced by exposure consequent upon the continuous and excessive duties that he was called upon to perform while in the service of the United States Navy as above stated.

MARGARET D. MARCHAND.

Sworn to and subscribed the day and year first above written before me.

[SEAL.] SPRIGG HARWOOD,
*Clerk Circuit Court for Anne Arundel County.*

On this 15th day of May, before me, Sprigg Harwood, clerk of circuit court for Anne Arundel County, personally appeared Alice P. Thornton, who, being duly sworn according to law, deposes and says:

That she is a sister of the within-named Margaret D. Marchand, and that she has read and carefully examined the affidavit of her said sister hereto appended; that she has personal knowledge of the condition of health and different stages of disease that finally resulted in the death of Commodore Marchand; and also personal knowledge of the statements contained in the annexed affidavit, and that she verily believes the same to be true.

ALICE P. THORNTON.

Sworn and subscribed this 15th day of May, 1884, before me.

[SEAL.] SPRIGG HARWOOD,
*Clerk Circuit Court for Anne Arundel County.*

We append also an account of the service of Commodore Marchand in Mobile Bay:

The morning of the 5th of August, 1864, found Admiral Farragut with his fleet, consisting of the Richmond, Port Royal, Lackawanna, Seminole, Monongahela, Kennebec, Ossipee, Itasca, Oneida, Galena, Brooklyn, Octorara, Metacomet, and lastly the Hartford, the admiral's flag-ship, at the mouth of Mobile Bay. Among the efficient officers who contributed to this important victory was Capt. John B. Marchand,* of the Lackawanna. At fifteen minutes of 6 o'clock the whole fleet was under way, and just one hour afterwards the first gun was fired. The ships above mentioned entered the bay, lashed to each other in pairs, side by side, in order to prevent any confusion in passing the formidable fortifications of the Confederates guarding the entrance to the bay. The Brooklyn and Octorara were in the lead. The Lackawanna, with the Seminole, was in the center of the line of battle. Fort Morgan first opened fire upon the fleet, and the rebel boats, Tennessee, Morgan, Gaines, and Selma, inside of the bay, raked the vessels with shot and shell.

Just around the point of land behind Fort Morgan could be seen three saucy-looking gunboats, and the famous ram Tennessee. The latter was then considered the strongest and most powerful iron-clad ever put afloat—looking like a great turtle, with sloping sides, covered with iron plates 6 inches in thickness, thoroughly riveted together, and having a formidable iron beak projecting into the water. Her armament consisted of six heavy guns of English make, sending a solid shot weighing 110 pounds irresistibly against everything but the turrets of the monitors.

In addition to these means of resistance the narrow channel in front of the fort had been lined with torpedoes. These were in the water, anchored to the bottom, and were chiefly in the shape of beer-kegs, filled with powder, from the sides of which projected numerous little tubes containing fulminate which it was expected would be exploded by contact with passing vessels.

* Since promoted to commodore.

Although shot and shell were flying around, none struck the Lackawanna's hull doing serious injury until she was within 400 or 500 yards of Fort Morgan, when a heavy enlongated shot from the fort passed through the ship's side, killing and wounding sixteen men at the 150-pound rifle, when it carried away two stanchions of the taffrail, passed through the foremast, and carried away the head of the sheet-cable bits, then passing through the other side of the ship, fell into the water. Blood and mangled human remains for a time impeded the working of the 150-pounder. The firing of shells from the Union fleet was so continuous that the Confederates were driven away from their guns.

At 8½ o'clock in the morning the Union fleet had passed beyond the range of the guns of Fort Morgan, when the ram Tennessee was seen approaching. The admiral made signal to the Monongahela, commanded by Captain Strong, as being nearest to run her down. The vessel was armed with a heavy artificial iron prow, and was among the wooden vessels the best adapted to the purpose of executing the admiral's order. At the same time the signal was sent up to the Lackawanna to also attack the Tennessee. The Monongahela first struck the rebel craft angularly, glancing off and doing her no perceptible injury. The Lackawanna was more fortunate, and struck her at right angles to her keel. The concussion was tremendous, both vessels rebounding, but soon after drifted against each other, broadside to broadside, head and stern. At this juncture Captain Marchand ordered the guns to be fired into the enemy, the vessels being then so close as to almost enable the men to touch each other. The effect of this broadside was to force the enemy to abandon their guns, thereby so disabling them as to prevent their using the guns on that side during the remainder of the engagement. The men on either ship fought hand to hand.

A determined attempt was here made by the crew of Captain Marchand, under his orders, to board the enemy's ship, but was found to be impossible on account of the heavy coatings of tallow with which the enemy's iron decks were covered. Many of his men slipped off and fell into the water. In the attempt to run down the Tennessee the stern of the Lackawanna was cut and crushed far back of the plank ends, doing her great injury, and leaving her in places but a few inches above the water. From the disabled condition of the Lackawanna in coping with this much superior antagonist, the two vessels became separated, the ram going ahead, and the Lackawanna having nothing to hold by, her captain ordered the helm hard over to bring the ship around, in order to make another attempt at running down the ram, but the great length of his vessel and the shoalness of the water, which was not more than a foot under the keel, prevented his turning rapidly, and in going round he collided with the Hartford, the admiral's flag-ship, although every effort was made on his part to prevent the collision by backing the engine. Of this it has been aptly said by a personal friend of Admiral Farragut, the historian of this engagement, and who expressed the sentiment of the admiral, long after the occurrence, that "the fault was as much with the Hartford as with the Lackawanna, each being too eager to reach the enemy."—(J. C. Kinney, in Scribner's Monthly Magazine, June, 1881.)

After the Lackawanna had cleared the Hartford she again started to run down the Tennessee, but before reaching her the rebel flag had been hauled down, a white one hoisted, and the ram had surrendered to the Union fleet, which by that time encompassed her on all sides, rendering her escape impossible.

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